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SALUS POPULI SUPREMA LEX ESTO

*"The welfare of the people shall be the supreme law."*



MATT BLUNT

SECRETARY OF STATE

MISSOURI  
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The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—The most recent version of the statute containing the section number and the date.

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**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

## Title 9—DEPARTMENT OF MENTAL HEALTH Division 10—Director, Department of Mental Health Chapter 31—Reimbursement for Services

### EMERGENCY RULE

#### 9 CSR 10-31.014 Waiver of Standard Means Test for Children in Need of Mental Health Services

**PURPOSE:** *This rule implements a revision to section 630.210, RSMo requiring the department to promulgate a rule waiving the Standard Means Test for a child in need of mental health services.*

**EMERGENCY STATEMENT:** *Under current statutes, the parent of a child who receives mental health services through the Department of Mental Health (DMH) must be charged for those services according to their ability to pay. The amount of the required payment is determined by a Standard Means Test. Some parents find it impossible to pay the required fee and, in order to ensure continued services for their child, they transfer legal custody of the child to the Children's Division. The 92nd General Assembly, in its second session, passed SB 1003 to address this situation. SB 1003 revised section 630.210, RSMo to require DMH to promulgate a rule waiving the Standard Means Test in these special circumstances. The Department of Mental Health finds that the early effective date of this legislation, i.e. August 28, 2004, makes it necessary to file an emergency rule implementing the waiver process. Without the waiver process, some*

*parents would continue to transfer custody of children to the Children's Division for inappropriate reasons or risk the termination of needed mental health services. As a result the Department of Mental Health finds that there is a compelling governmental interest in filing an emergency rule. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Mental Health thinks that this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed September 2, 2004, effective September 15, 2004, and expires March 13, 2005.*

#### (1) Definitions.

(A) The terms defined in 9 CSR 10-31.011 Standard Means Test are incorporated by reference as though set out in this rule.

(B) A "child in need of mental health services," as used in this rule, is any child who qualifies to receive services from the Department of Mental Health under Chapters 630, 631, 632 or 633, RSMo.

(2) Request for Waiver. At the time of initial application of the Standard Means Test (SMT) for a child in need of mental health services, and at the time of any subsequent reapplication, the provider shall inform the financially responsible person that the SMT may be waived.

(A) The provider shall make available to the financially responsible person information on how to submit a request for SMT waiver.

(B) The financially responsible person shall submit the request in writing to the department director, with a copy to the provider.

(C) The provider shall not charge the monthly rate as determined by the provider's application of the SMT to the financially responsible person for services provided to the child during the time the request is under review.

(D) A waiver may be approved, or approved with conditions, for up to one (1) year. It is the responsibility of the financially responsible person to notify the provider of any significant change in financial status. A waiver may be reevaluated at the initiative of the department director due to any significant change in financial status.

(3) Review of Request for Waiver. Upon receipt of a request for SMT waiver the department director shall designate an individual or individuals to review the request. The designee or designees shall approve, approve with conditions, or deny the request within seven (7) working days of receipt of the written request. The designee or designees shall provide notice of the decision to the requestor by certified mail with copy to the provider.

(4) Consideration of Request. In making the decision to approve, approve with conditions, or deny the request, the designee or designees must consider the following, as presented by the requestor:

(A) The recommendation of the local care team, or other designated local or regional children's mental health authority that waiving the SMT will contribute to the therapeutic needs of the child by allowing the child to remain in the custody of the parent or custodian;

(B) History of the child being in state custody due exclusively to the need for mental health services where no substantiated reports of abuse or neglect exist;

(C) Statement from the financially responsible person that their primary motivation for requesting the waiver is to avoid loss of custody because they are unable to pay the monthly amount as determined by application of the Standard Means Test;

(D) Past efforts of the financially responsible person to obtain needed medical care, and expenses incurred by the financially

responsible person for the treatment of the mental health condition or for the physical health of the child necessitated by the onset of the mental health condition;

(E) The parent or custodian's history of insurance benefits expended for physical and mental health treatment of the child and their current attempts to obtain commercial or government-sponsored insurance coverage; and

(F) The parent or custodian's overall wherewithal to pay for the child's mental health treatment needs at the time of requesting the waiver, including gross income, medical expenses, assets, liabilities, and financial responsibility for other dependents in the home.

(5) Denial of Request. A request for waiver shall be denied when the request for waiver—

(A) Is not submitted in writing;

(B) Does not raise factual issues sufficient to show that inappropriate transfer of custody to the Children's Division is likely to occur absent the waiver; or

(C) Does not present persuasive, factual evidence that the financially responsible person cannot afford to pay the monthly amount required by the application of the Standard Means Test.

(6) Appeal of Denial. Within seven (7) working days of receipt of notice of approval with conditions or denial of a request, the financially responsible person may appeal the approval with conditions or denial in writing to the department director, with copy to the provider.

(7) Review of Appeal. Within seven (7) working days of receipt of the written appeal, and upon completion of review, the department director shall issue a decision which may alter the approval with conditions or denial. The department director shall provide notice of the decision by certified mail to the financially responsible person with copy to the provider. The decision of the department director shall be the final decision of the department.

*AUTHORITY: sections 630.050, RSMo 2000 and 630.210, RSMo Supp. 2004. Emergency rule filed Sept. 2, 2004, effective Sept. 15, 2004, expires March 13, 2005. A proposed rule covering this same material is published in this issue of the Missouri Register.*

### **Title 13—DEPARTMENT OF SOCIAL SERVICES** **Division 70—Division of Medical Services** **Chapter 15—Hospital Program**

#### **EMERGENCY AMENDMENT**

**13 CSR 70-15.110 Federal Reimbursement Allowance (FRA).** The division is adding section (12).

*PURPOSE: The emergency amendment adds section (12). This amendment will establish the Federal Reimbursement Allowance (FRA) assessment for SFY 2005 at 5.53%.*

*EMERGENCY STATEMENT: The Division of Medical Services finds that this emergency amendment is necessary to preserve a compelling governmental interest of providing health care to individuals eligible for the Medicaid program. An early effective date is required in that the emergency amendment establishes the Federal Reimbursement Allowance for State Fiscal Year 2005 to ensure access to hospital services for indigent and Medicaid recipients at hospitals which have relied on Medicaid payments in meeting those needs. The Division of Medical Services also finds an immediate danger to public health and welfare which requires emergency action. If this emergency amendment is not enacted, it will cause significant cash flow shortages and financial strain on all hospitals which service more than nine hundred thousand (900,000) Medicaid recipients. This will, in turn, result in an adverse impact on the health and welfare of those*

*in need of medical care and treatment. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Division of Medical Services believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed September 10, 2004, effective September 20, 2004 and expires March 18, 2005.*

**(12) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2005.** The FRA assessment for State Fiscal Year (SFY) 2005 shall be determined at the rate of five and fifty-three hundredths percent (5.53%) of the hospital's total operating revenue less tax revenue/other government appropriations plus nonoperating gains and losses as published by the Missouri Department of Health and Senior Services, Section of Health Statistics. The base financial data for 2001 will be annualized, if necessary, and will be adjusted by the trend factor listed in 13 CSR 70-15.010(3)(B) to determine revenues for the current state fiscal year. The financial data that is submitted by the hospitals to the Missouri Department of Health and Senior Services is required as part of 19 CSR 10-33.030 Reporting Financial Data by Hospitals. If the pertinent information is not available through the Department of Health and Senior Services' hospital database, the Division of Medical Services will use the Medicaid data similarly defined from the Medicaid cost report that is required to be submitted pursuant to 13 CSR 70-15.010(5)(A).

*AUTHORITY: sections 208.201, 208.453 and 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 10, 2004, effective Sept. 20, 2004, expires March 18, 2005.*

### **Title 15—ELECTED OFFICIALS** **Division 60—Attorney General** **Chapter 14—Legal Expense Fund Coverage for** **Attorneys Practicing Law Without Compensation**

#### **EMERGENCY RULE**

#### **15 CSR 60-14.010 Definitions**

*PURPOSE: This rule defines terms used in section 105.711, RSMo, as amended by Senate Bill No. 1247, 92nd General Assembly (2004).*

*EMERGENCY STATEMENT: Senate Bill No. 1247, 92nd General Assembly (2004) amended section 105.711, RSMo, to extend legal expense fund coverage to attorneys practicing law at or through a nonprofit community social services center or an agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. The new law goes into effect on August 28, 2004. This emergency rule defines terms and provides guidance to attorneys, social services centers and government agencies, and is necessary to preserve the state's compelling governmental interest in insuring that contracting procedures and documentation of legal practice are consistent and adequate to insure that claims against the Legal Expense Fund can be appropriately defended. In order to insure that this rule is fair to all interested persons and complies with the Missouri and United States Constitutions, the Attorney General has solicited input from a number of nonprofit organizations and governmental agencies throughout the state. In addition, a proposed rule which covers the same material is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating an emergency and requiring emergency action. The Attorney General believes this emergency rule*



*is fair to all interested persons and parties under the circumstances. This emergency rule filed September 2, 2004, effective September 12, 2004, expires March 10, 2005.*

- (1) "Agency"—an agency of any federal, state, or local government.
- (2) "Agency of any federal, state, or local government"—a governmental agency located in the state of Missouri, existing under and deriving its powers from the federal or state constitution or federal or state law.
- (3) "Center"—a nonprofit community social services center.
- (4) "Licensed attorney"—a member of The Missouri Bar, including a member exempt from the payment of bar dues pursuant to Supreme Court Rule 6.01(d)(1), (2) or (3), but not including an attorney in the reduced enrollment fee category of Supreme Court Rule 6.01(j)(3).
- (5) "Nonprofit community social services center"—a nonprofit corporation, a benevolent corporation or an unincorporated association that provides legal services without charge to or on behalf of poor or indigent Missouri residents, that has applied for tax-exempt status under section 501(c)(3) of the *Internal Revenue Code* and has received a determination letter from the Internal Revenue Service recognizing the organization's tax exempt status.

*AUTHORITY: section 105.711.4, RSMo Supp. 2004. Emergency rule filed Sept. 2, 2004, effective Sept. 12, 2004, expires March 10, 2005. A proposed rule covering this same material is published in this issue of the Missouri Register.*

**Title 15—ELECTED OFFICIALS**  
**Division 60—Attorney General**  
**Chapter 14—Legal Expense Fund Coverage for**  
**Attorneys Practicing Law Without Compensation**

**EMERGENCY RULE**

**15 CSR 60-14.020 Contract Procedures**

*PURPOSE: This rule prescribes contract procedures for purposes of section 105.711, RSMo, as amended by Senate Bill No. 1247, 92nd General Assembly (2004).*

*EMERGENCY STATEMENT: Senate Bill No. 1247, 92nd General Assembly (2004) amended section 105.711, RSMo, to extend legal expense fund coverage to attorneys practicing law at or through a nonprofit community social services center or an agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. The new law goes into effect on August 28, 2004. This emergency rule defines terms and provides guidance to attorneys, social services centers and government agencies, and is necessary to preserve the state's compelling governmental interest in insuring that contracting procedures and documentation of legal practice are consistent and adequate to insure that claims against the Legal Expense Fund can be appropriately defended. In order to insure that this rule is fair to all interested persons and complies with the Missouri and United States Constitutions, the Attorney General has solicited input from a number of nonprofit organizations and governmental agencies throughout the state. In addition, a proposed rule which covers the same material is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating an emergency and requiring emergency action. The Attorney General believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule filed September 2, 2004, effective September 12, 2004, expires March 10, 2005.*

(1) An attorney practices law at or through a nonprofit community social services center or through any agency of any federal, state, or local government if:

(A) The attorney provides to the center or agency in writing his or her name, address, place of employment, if any, daytime telephone number and Missouri Bar number;

(B) The attorney is assigned clients, cases or matters by the center under procedures adopted by the center or agency, not to include clients assigned by court order;

(C) The attorney has no preexisting attorney client relationship with any client under which a fee has been collected or contracted for;

(D) The attorney agrees in writing at the outset of any representation or consultation that no fee will be charged, sought or accepted for representation or consultation regardless of the outcome of the representation or consultation; and

(E) The attorney does not discriminate in providing legal services on the basis of race, sex, religion, national origin or ethnic background.

(2) An attorney practices law without compensation at or through a nonprofit community social services center or through any agency of any federal, state, or local government if:

(A) Neither the attorney nor the center receives, or contracts for the receipt of a fee, donation or contribution of money, goods, services or any other thing of value in any way related to the attorney's legal representation;

(B) The attorney does not receive a salary, hourly wage or any other thing of value from the center or agency;

(C) The attorney does not receive a salary, hourly wage or any other thing of value from any person, firm, corporation, partnership or any other source in any way related to the attorney's practice of law at or through the center or agency; and

(D) No other individual or entity, other than the client and/or his or her heirs, assigns and beneficiaries, receives anything of value in any way related to the attorney's services at or through the center.

*AUTHORITY: section 105.711.4, RSMo Supp. 2004. Emergency rule filed Sept. 2, 2004, effective Sept. 12, 2004, expires March 10, 2005. A proposed rule covering this same material is published in this issue of the Missouri Register.*

**Title 15—ELECTED OFFICIALS**  
**Division 60—Attorney General**  
**Chapter 14—Legal Expense Fund Coverage for**  
**Attorneys Practicing Law Without Compensation**

**EMERGENCY RULE**

**15 CSR 60-14.030 Documentation of Legal Practice**

*PURPOSE: This rule prescribes procedures for documentation of legal practice for purposes of section 105.711, RSMo, as amended by Senate Bill No. 1247, 92nd General Assembly (2004).*

*EMERGENCY STATEMENT: Senate Bill No. 1247, 92nd General Assembly (2004) amended section 105.711, RSMo, to extend legal expense fund coverage to attorneys practicing law at or through a nonprofit community social services center or an agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. The new law goes into effect on August 28, 2004. This emergency rule defines terms and provides guidance to attorneys, social services centers and government agencies, and is necessary to preserve the state's compelling governmental interest in insuring that contracting procedures and documentation of legal practice are consistent and adequate to insure that claims against the Legal Expense Fund can be appropriately defended. In order to insure that this rule is fair to all interested persons*

and complies with the *Missouri and United States Constitutions*, the Attorney General has solicited input from a number of nonprofit organizations and governmental agencies throughout the state. In addition, a proposed rule which covers the same material is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating an emergency and requiring emergency action. The Attorney General believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule filed September 2, 2004, effective September 12, 2004, expires March 10, 2005.

(1) A nonprofit community social services center through which any attorney practices law without compensation shall provide a copy of its federal tax exemption letter or other verification of tax exempt status under section 501(c)(3) of the *Internal Revenue Code* to the Attorney General.

(2) For each attorney who provides legal services without compensation at or through a nonprofit community social services center or through any agency of any federal, state, or local government or through any agency of any federal, state, or local government, the center or agency shall annually during the month of June provide to the Attorney General:

(A) The attorney's name, address, and daytime telephone number;

(B) The attorney's Missouri Bar number or other evidence that the attorney is licensed to practice law in Missouri;

(C) An estimate of the number of hours per year of legal services provided without compensation by the attorney through the center or agency;

(D) A general description of the area of practice engaged in by the attorney.

(3) An attorney practicing law at or through a nonprofit community social services center may maintain records documenting client representation or consultation at the center if, in the attorney's professional judgement, the center has a physical location with record keeping capabilities adequate to preserve the records and to safeguard attorney client confidences. If the center does not have an adequate physical location, the attorney shall maintain such records at his or her place of business, home or other location appropriate for securing client records.

(4) Documentation of coverage shall be maintained by the Attorney General.

*AUTHORITY: section 105.711.4, RSMo Supp. 2004. Emergency rule filed Sept. 2, 2004, effective Sept. 12, 2004, expires March 10, 2005. A proposed rule covering this same material is published in this issue of the Missouri Register.*

## **Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

### **Division 20—[Divison of] Environmental Public Health and Communicable Disease Prevention Chapter 3—General Sanitation**

#### **EMERGENCY AMENDMENT**

**19 CSR 20-3.080 Description of Persons Qualified to Perform Percolation Tests [of], Soils Morphology Examinations in Determining Soil Properties for On-Site Sewage Disposal Systems and Installation of On-Site Wastewater Treatment Systems.** The department is amending the title, subsection (1)(D), sections (2), (4), (5), (8), (11), (13) and (15); adding new subsections (1)(A), (B), (E), (G) and (J), sections (3), (6), (7), (10), (12), (14) and (16); and renumbering as necessary.

**PURPOSE:** This amendment establishes the criteria for inclusion on the registered on-site wastewater system installers list in accordance with sections 701.025 through 701.059, RSMo.

**EMERGENCY STATEMENT:** This emergency amendment establishes the process for registration of on-site wastewater treatment system installers. This emergency amendment is necessary to protect the public health, safety and welfare by assuring consistency throughout Missouri in the installation of on-site wastewater treatment systems which do not contaminate groundwater and surface water, leading to human exposure. This emergency amendment is necessary due to House Bill 1433 being effective on August 28, 2004, requiring registration of all on-site wastewater treatment system installers. As a result, the Department of Health and Senior Services finds a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Department of Health and Senior Services believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 2, 2004, effective September 12, 2004 and expires March 10, 2005.

(1) The following definitions shall apply in the interpretation and enforcement of this rule:

(A) **Administrative Authority**—The governing body which may include, but is not limited to, county health departments, planning and zoning commissions, county building departments, county public works department, sewer districts, municipalities and the Missouri Department of Health and Senior Services which has, as authorized by statute, charter or other form of enabling authority, adopted regulations equal to or greater than sections 701.025 through 701.059, RSMo for individual on-site wastewater treatment systems;

(B) **Advanced on-site wastewater treatment system (OWTS) installer**—A person registered by the department to install advanced OWTS as listed by the department;

[[A]] (C) **Certified Agent of the Department of Health and Senior Services**—A person or entity that has received authority from the Department of Health and Senior Services to act on behalf of the Department of Health and Senior Services regarding certification of individuals to conduct percolation or soil morphology examinations;

[[B]] (D) **Department**—the Missouri Department of Health and Senior Services;

(E) **Installer**—Any person defined in section 701.025, RSMo as an "on-site sewage disposal system contractor";

[[C]] (F) **Licensed engineer**—A person authorized under the provisions of Chapter 327, RSMo to practice as a professional engineer in Missouri and who may legally render or offer to render or hold him/herself out as willing or able to render any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or related courses, and the inspection of construction for the purpose of assuring compliance with drawings and specifications, any of which embraces such service or work with public or private, in connecting with any utilities, structures, building, machines, equipment, processes, work systems, or projects and including such architectural work as is incidental to the practice of engineering; or who uses the title professional engineer or consulting engineer or the word engineer alone or preceded by any word indicating or implying that such person is or holds him/herself out to be a professional engineer, or who shall use

any word(s), letters, figures, degrees, titles or other description indicating or implying that the person is a professional engineer or is willing or able to practice engineering;

**(G) On-site wastewater treatment system (OWTS)—Any system defined in section 701.025(8), RSMo as an “on-site sewage disposal system”;**

**[[D]] (H) Percolation test**—The method of testing absorption qualities of the soil by prescribed means of digging and soaking holes with water, and measuring the rate of absorption into the soil;

**[[E]] (I) Registered geologist**—A geologist who has met the qualifications established by the Missouri Board of Geologist Registration and has been issued a *[certified]* certificate of registration by the board;

**(J) Regular on-site wastewater treatment system (OWTS) installer**—A person registered by the department to install regular OWTS as listed by the department;

**[[F]] (K) Sanitarian**—A person registered either as a sanitarian or environmental health professional by the National Environmental Health Association, certified as a sanitarian or environmental health professional by the Missouri Board of Certification for Environmental Health Professionals or employed as sanitarian or environmental health professional by the administrative authority;

**[[G]] (L) Soil Morphology Examination**—The method of testing absorption qualities of the soil by physical examination of the soils’ color, mottling, texture, structure, topography and hillslope position; and

**[[H]] (M) Soil scientist**—A person who has successfully completed at least fifteen (15) semester hours of soils science course work including at least three (3) hours of course work in soil morphology and interpretations, and has a minimum of two (2) years of field experience.

(2) A person meeting the definitions of soil scientist as defined in subsection (1)/**[[H]](M)** of this rule may conduct a percolation test, soil morphology examination, or both, to determine suitability for on-site sewage disposal systems.

(3) A person must be registered by the department to install an OWTS according to the standards set forth in sections 701.025 through 701.059, RSMo and 19 CSR 20-3.060.

(A) Installation of on-site wastewater treatment systems. The installation of any OWTS can only be done by a person registered with the department, with the exception of a property owner meeting the requirements of section 701.055, RSMo. After July 1, 2005, only persons registered as advanced OWTS installers shall install systems listed by the department as advanced OWTS.

1. To obtain registration from the department as a regular OWTS installer, a person shall:

A. Complete a training course conducted by or approved by the department with a score of seventy percent (70%) or higher; and

B. Complete the department registration process described in section (6).

2. To obtain registration from the department as an advanced OWTS installer, a person shall:

A. Possess a regular OWTS installer’s registration in good standing;

B. Complete an advanced OWTS installer training course approved by the department with a score of seventy percent (70%) or higher; and

C. Complete the department registration process described in section (6).

**[[3]] (4)** After successful completion of a training course acceptable to or administered by the department, a person meeting the definitions of registered geologist, licensed engineer or sanitarian as defined in subsections (1)/**[[B]], (C) or (E)] (F), (I) or (K)** of this rule may conduct a percolation test to determine suitability for on-site

sewage disposal systems. This person may also conduct a soil morphology examination if s/he has completed a minimum of ten (10) semester hours of soils course work, at least three (3) hours of which shall have included studies in soil morphology.

**[[4]] (5)** Prior to conducting percolation tests, a person not meeting the definitions of licensed engineer, registered geologist, sanitarian or soil scientist as defined in subsections (1) **[[B], (C), (E) or (H)] (F), (K), (I), or (M)** of this rule must become certified by the department or a certified agent of the department. Certification may be obtained by successful completion of a training course conducted by or approved by the department. This training course shall include, at a minimum, course work, field work, a written examination and a practical examination.

#### **(6) Department Registration Process.**

(A) To complete the department registration process, a person shall:

1. Complete an application on a form approved by the department;

2. Pay the registration or registration renewal fee at the time the application is submitted. Payment shall be made in the form of a personal check, certified or cashier’s check or money order made payable to the Department of Health and Senior Services. This is a nonrefundable processing fee; and

3. Pay a late charge of ten dollars (\$10) in addition to the registration renewal fee if an application is submitted more than fifteen (15) days after the previous registration expires. Registration renewal applications will not be accepted more than forty-five (45) days after the previous registration expires. Persons submitting registration renewal applications more than forty-five (45) days after expiration of their registration will be required to complete the original registration process, including any department training requirements for original registration.

4. Each renewal application shall include a list of all continuing education units (CEU) completed for the thirty-six (36)-month period prior to the application. The department shall not grant a renewal of the registration unless the applicant provides documentation of successful completion of at least twenty (20) hours of department-approved CEU, four (4) hours of which shall be provided by the department, within the thirty-six (36)-month period prior to the application.

(B) All individuals registered with the department before August 28, 2004, will receive a registration during the first year of implementation of this rule, valid for not more than thirty-six (36) months which shall be renewable upon completion of the department registration process as described in section (3) and paying a fee not to exceed ninety dollars (\$90). Each registration issued during the first year will be assigned an expiration date by the department.

(C) After August 28, 2004, persons registering for the first time and paying a ninety dollar (\$90)-fee, will receive a registration valid for thirty-six (36) months, unless otherwise suspended, revoked or surrendered, and shall be renewable upon completion of the department registration process described in section (3), and paying a fee not to exceed ninety dollars (\$90).

(D) After August 28, 2004, the department may issue a one (1)-time temporary regular OWTS installer registration, valid for no more than one hundred eighty (180) days for work in a specific county or counties. The temporary regular OWTS registration will be converted to a regular OWTS installer registration upon completion of a department-approved training program and completion of the department registration process as described in section (3). Failure to complete the training or the department registration process will result in termination of the person’s temporary regular OWTS installer registration.

(E) After August 28, 2004, the department may issue a probationary regular OWTS installer registration for work in a



specific county or counties. This registration will be valid for a specific period of time, as determined by the department, and will be dependent on the registered person meeting and maintaining specific requirements as established by the department.

**(7) Standards of Practice—OWTS Installers.**

(A) A registered regular OWTS installer or a registered advanced OWTS installer shall:

1. Possess a current regular OWTS installer registration or advanced OWTS installer registration with the department before beginning construction of an on-site wastewater treatment system;

2. Record their registration number on all bids, proposals, contracts, invoices, permit application construction drawings, or other correspondence with the homeowner and administrative authority;

3. Provide true and accurate information on any application and any other OWTS documentation;

4. Begin the construction of an OWTS only after obtaining approval from the administrative authority, unless approval is not required;

5. Construct the OWTS meeting the construction and permit criteria required by sections 701.025–701.059, RSMo and any rule adopted thereunder or the more stringent requirements of the administrative authority, if applicable;

6. Construct the OWTS that has been authorized by the administrative authority for the specific location identified in the application;

7. Be present at the construction site during construction and supervise all construction activities;

8. Submit complete and accurate “certification without on-site inspection form,” when requested; and

9. Maintain a current address and phone number with the department and submit any address or phone number changes to the department in writing within thirty (30) days of the change taking place.

[[5]] (8) The department may audit the work of a licensed engineer, registered geologist, sanitarian, soil scientist or certified person at any time to determine whether a proper and competent percolation test, soil morphology examination inspection or evaluation, or a combination, was made. Failure to adhere to department standards may be cause for suspension or revocation of the certification or authorization, or for mandatory successful completion of a training course as described in section [[4]] (5). The audit may be an unannounced visit to the property on which the percolation test or soil morphology examination was conducted, which may include an independent soil percolation test or soil morphology examination, or a visit within the period of a soil percolation test or soil morphology examination with or without prior appointment with the certified or authorized person.

[[6]] (9) No person without certification or authorization may conduct any part of a percolation test or soil morphology examination in which results are intended for use in design of an on-site sewage disposal system, whether on his/her own or under supervision of a certified or authorized person. Any certified or authorized person allowing or directing an uncertified or unauthorized person to conduct a percolation test or soil morphology examination will be subject to suspension or revocation of his/her certification or authorization.

(10) The department may audit the work of a registered regular OWTS installer or registered advanced OWTS installer at any time to determine whether the standards of practice, as defined by this rule are being met. Failure to adhere to department standards may be cause for placement on probation, suspension, or revocation of the registration, or for mandatory successful completion of a training course and/or testing as described in section (3). The audit may be an unannounced visit to the property on

which the on-site sewage system installation was conducted, which may include a visit within the period of an on-site sewage system installation with or without prior appointment with the registered person.

[[7]] (11) The suspension or revocation of certification or authorization of a licensed engineer, registered geologist, sanitarian, soil scientist or percolation tester shall be served in writing by certified mail or personal service to the affected person *[of]* or his/her representative. Within ten (10) days the person may request a hearing or written review to show cause why the certification or authorization should not be suspended or revoked. The department may set a date not fewer than ten (10) nor more than thirty (30) days after receipt of the request. The decision of the department following the hearing or written review may be appealed to the Administrative Hearing Commission as provided in Chapters 536 and 621, RSMo.

(12) A registered regular OWTS installer or registered advanced OWTS installer may have their registration placed on probation, suspended, or revoked, if—

(A) The person fails to meet the registration renewal requirements;

(B) Fails an audit or refuses to participate in an audit;

(C) Fails to submit reports, submits false reports or allows another individual to use his/her license;

(D) Is convicted of a violation of any provisions of sections 701.025 through 701.059, RSMo or any rules promulgated under that statute;

(E) Has plead guilty or has been found guilty of an infraction, misdemeanor or felony involving misrepresentation, fraud or other crime relating to activities of installing, repairing, inspecting or otherwise associated with on-site sewage disposal systems;

(F) Directs or allows an unregistered person to install an on-site wastewater treatment system without direct supervision; or

(G) Fails to comply with standards of practice established by this rule.

[[8]] (13) Any *[person]* licensed engineer, registered geologist, sanitarian, soil scientist or percolation tester whose certification or authorization has been revoked may not reapply for certification or authorization for at least one (1) year after the revocation.

(14) Any registered regular OWTS installer or registered advanced OWTS installer whose registration has been revoked may not reapply for registration for at least one (1) year from date of revocation, and must complete the department training requirements for registration described in section (3) and complete the department registration process as described in section (6) above.

[[9]] (15) A person may be permanently barred from reapplying for registration, certification or authorization if—

(A) The person has been found *[quality]* guilty of an infraction, misdemeanor or felony involving misrepresentation, fraud or other crime relating to activities associated with on-site sewage disposal systems; or

(B) The person has his/her certification or authorization revoked a second time within five (5) years.

(16) No person as defined in section 701.025, RSMo may authorize, permit, or knowingly allow the installation of an on-site wastewater treatment system by an unregistered person other than the property owner.

*AUTHORITY: section 701.033, RSMo Supp. 2004 and 701.040 [[2]], RSMo [1994] 2000. Emergency rule filed April 17, 1995, terminated April 26, 1995. Original rule filed April 17, 1995, effective Dec. 30, 1995. Emergency amendment filed Sept. 2, 2004, effective Sept. 12, 2004, expires March 10, 2005. A proposed rescission and rule covering this same material is published in this issue of the Missouri Register.*



**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 3—Personnel Selection, Appointment, Evaluation and Separation**

**PROPOSED AMENDMENT**

**1 CSR 20-3.070 Separation, Suspension and Demotion.** The Personnel Advisory Board is amending section (3) of this rule.

*PURPOSE: This amendment is for compliance with federal regulations allowing suspensions of exempt employees for one (1) workday.*

(3) Suspension. An appointing authority, for disciplinary purposes, may suspend without pay any employee in his/her division. A suspension may be made for a length of time as s/he considers appro-

priate, not exceeding twenty (20) working days in any twelve (12)-month period except that this limitation shall not apply in the event of a terminal suspension given in conjunction with a dismissal; a suspension given in connection with a criminal offense involving the use of a controlled substance; or, with the approval of the director, a suspension made pending the investigation or trial of any charges against the employee (see section 36.370, RSMo). Employees enumerated in 1 CSR 20-5.010(1)(C) and (D) and designated as exempt from the overtime requirements of the Fair Labor Standards Act, shall not be suspended from duty without pay for disciplinary purposes unless the said suspension is for one (1) or more full *[workweeks]* **workdays**.

(6) Resignations from the classified service shall be governed by the following provisions:

(C) *[An employee who applies and is approved by the applicable state benefit system for long-term disability or retirement status shall be deemed to have voluntarily resigned in good standing. Employees in either of these situations retain the reemployment eligibility to which they are entitled under 1 CSR 20-3.030(6).]* **An employee who applies and is approved by the applicable state benefit system for long-term disability or retirement status shall be deemed to have voluntarily resigned (with reemployment eligibility) unless:**

**1. The appointing authority approves an application made by the employee for a leave of absence without pay pursuant to 1 CSR 20-5.020(7) based on the expectation that the employee may be rehabilitated and return to work; or**

**2. The employee is eligible to receive a partial disability benefit under the state's long-term disability program and the appointing authority can accommodate a part-time work schedule for the employee.**

*AUTHORITY: section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 15, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with the Director of Personnel, Office of Administration, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 1:00 p.m., December 14, 2004, in Room 490 in the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.*

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 5—Working Hours, Holidays and Leaves of Absence**

**PROPOSED AMENDMENT**

**1 CSR 20-5.025 ShareLeave.** The Personnel Advisory Board is amending subsection (1)(G) and section (2) of this rule.

**PURPOSE:** This amendment would allow for one-half of an employee's donation to the ShareLeave pool to be identified for use by a specific eligible employee of the agency.

(1) The state agencies that are covered under section 36.350, RSMo, may establish ShareLeave programs within their agencies for employees to donate leave to other employees. These programs may be established under the conditions set out within the following regulations:

(G) Donations shall *[not be made to individuals, but shall]* be made to a departmental or agency "pool" established for this purpose[;]. **Each agency may, at the time the donation is made, allow for up to one-half (1/2) of an employee's donation to the agency "pool" to be identified for use by a specific employee of the agency who has been approved for ShareLeave under the agency's program;**

(2) Each appointing authority that adopts a program under this *[program]* rule shall submit a formal written policy and updates to the Personnel Advisory Board for review.

**AUTHORITY:** sections 36.060 and 36.070, RSMo *[Supp 1998]* 2000. Original rule filed Oct. 31, 1996, effective May 30, 1996. Amended: Filed Sept. 15, 1999, effective April 30, 2000. Amended: Filed Sept. 15, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Director of Personnel, Office of Administration, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 1:00 p.m., December 14, 2004, in Room 490 in the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 110—Missouri Dental Board Chapter 2—General Rules**

##### **PROPOSED AMENDMENT**

**4 CSR 110-2.170 Fees.** The board is proposing to amend paragraph 1)(E)1.

**PURPOSE:** This amendment establishes fees for the issuance and renewal of deep sedation/general anesthesia and conscious sedation permits and certificates.

(1) The following fees are established by the Missouri Dental Board:  
(E) Certification/Permit Fees.

##### **1. Dentists**

##### **A. Deep Sedation/General Anesthesia**

(I) Individual Permit Fee <i>[(per person per site)]</i>	\$100
(II) <i>[Renewal Fee (per person per site)]</i>	
Site Certificate Permit Fee	\$100
(III) Individual Permit Renewal Fee	<b>\$100</b>
(IV) Site Certificate Renewal Fee	<b>\$100</b>

##### **B. *[Parenteral Conscious Sedation]***

##### **Conscious Sedation (Enteral and/or Parenteral)**

(I) Individual Permit Fee *[(per person per site)]* \$100

(II) *[Renewal Fee (per person per site)]*

    Site Certificate Permit Fee \$100

(III) Individual Permit Renewal Fee **\$100**

(IV) Site Certificate Renewal Fee **\$100**

##### **2. Dental Hygienists**

A. Administration of Nitrous Oxide Analgesia \$ 10

B. Local Anesthesia \$ 10

##### **3. Dental Assistants**

A. Monitoring Nitrous Oxide Analgesia \$ 10

**AUTHORITY:** section 332.031.3, RSMo 2000. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 6, 1981. Original rule filed June 30, 1981, effective Oct. 11, 1981. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 15, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at dental@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 110—Missouri Dental Board Chapter 2—General Rules**

##### **PROPOSED RESCISSION**

**4 CSR 110-2.180 General Anesthesia.** This rule defined and established rules for the administration of general anesthesia.

**PURPOSE:** The board is proposing to rescind this rule and add proposed rule 4 CSR 110-4.040 that will regulate deep/sedation general anesthesia.

**AUTHORITY:** section 332.031.2, RSMo Supp 1997. Original rule filed April 14, 1982, effective Oct. 11, 1982. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Sept. 15, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 110—Missouri Dental Board  
Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 110-2.181 Parenteral Conscious Sedation.** This rule provided for the regulation of the administration of parenteral conscious sedation.

*PURPOSE: The board is proposing to rescind this rule and add proposed rules 4 CSR 110-4.020 and 4 CSR 110-4.030 that will regulate conscious sedation.*

*AUTHORITY: section 332.031, RSMo Supp. 1997. Original rule filed April 16, 1985, effective Aug. 26, 1985. Amended: Filed Aug. 4, 1986, effective Oct. 27, 1986. Amended: Filed May 3, 1988, effective July 28, 1988. Amended: Filed Nov. 2, 1989, effective Feb. 25, 1990. Amended: Filed Aug. 12, 1991, effective Jan. 13, 1992. Rescinded and readopted: Filed Sept. 15, 1998, effective April 30, 1999. Rescinded: Filed Sept. 15, 2004.*

*PUBLICITY COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at dental@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 110—Missouri Dental Board  
Chapter 4—Sedation**

**PROPOSED RULE**

**4 CSR 110-4.010 Definitions**

*PURPOSE: This rule defines terms used throughout the rules of Chapter 4.*

(1) The following words and terms, when used in this rule, shall have the following meanings.

(A) Anxiolysis—the diminution or elimination of anxiety without diminishing in any manner the patient's ability to think, speak, or respond. Anxiolysis is not conscious sedation.

(B) Conscious sedation—a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, and that is produced by a pharmacologic or non-pharmacologic method, or a combination thereof. Conscious sedation is not deep sedation or general anesthesia.

(C) Conscious sedation permit—a document issued by the Missouri Dental Board to a dentist that allows the dentist to administer enteral and/or parenteral conscious sedation.

(D) Conscious sedation site certificate—a document issued by the Missouri Dental Board to a specific dental office where conscious sedation is administered.

(E) Deep sedation—a controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to verbal command, and is produced by a pharmacologic or non-pharmacologic method or a combination thereof.

(F) Deep sedation/general anesthesia permit—a document issued by the Missouri Dental Board to a dentist that allows the dentist to administer deep sedation/general anesthesia.

(G) Deep sedation/general anesthesia site certificate—a document issued by the Missouri Dental Board to a specific dental office where deep sedation/general anesthesia is administered.

(H) Dentist-in-charge—a dentist duly licensed by the board to practice at a facility in which sedation anesthesia services are to be offered and who assumes the responsibility to assure that the facility is properly equipped and the sedation team is properly trained.

(I) Dental office—a facility where dentistry is practiced in accordance with the provisions of section 332.071, RSMo.

(J) Dentist—one who is currently licensed to practice as a dentist in Missouri and is ultimately responsible for the sedation procedure of a dental patient under his/her care.

(K) Enteral conscious sedation—a technique of administration in which the drug is absorbed through the gastrointestinal tract or oral mucosa (i.e. oral, rectal, or sublingual). Enteral conscious sedation is not parenteral conscious sedation, deep sedation or general anesthesia.

(L) Facility inspection—an inspection confirming the adequacy of the dental office to provide enteral and/or parenteral conscious sedation by consultants appointed by the board to insure public safety.

(M) General anesthesia—a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including the inability to independently and continuously maintain an airway and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacologic or non-pharmacologic method or a combination thereof.

(N) Nurse anesthetist—a nurse recognized or licensed by the Missouri State Board of Nursing, who is certified to administer anesthesia by a nationally recognized certifying body approved by the Missouri State Board of Nursing in accordance with Chapter 335, RSMo.

(O) On-site evaluation—a performance evaluation of the competency of the sedation team by consultants appointed by the board to insure public safety.

(P) Parenteral conscious sedation—a technique of administration in which the drug bypasses the gastrointestinal tract, i.e. routes of administration: intravenous (I.V.), intramuscular (I.M.), intranasal (I.N.), subcutaneous (S.C.), intraocular (I.O). Parenteral conscious sedation is not deep sedation or general anesthesia.

(Q) Physician anesthesiologist—a physician licensed by the Missouri State Board of Registration for the Healing Arts in accordance with Chapter 334, RSMo, with privileges in general anesthesia at an institution accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the American Osteopathic Association (AOA).

(R) Sedation team—those individuals qualified pursuant to 4 CSR 110-4.030(7)(B) and employed by the dental office involved with the treatment and/or monitoring of a sedation patient.

(S) Qualified sedation provider—any of the following who have satisfied the provisions of this rule:

1. A currently licensed dentist in Missouri with a valid permit to administer enteral and/or parenteral conscious sedation;
2. A currently licensed physician anesthesiologist; or
3. A currently licensed nurse anesthetist.

*AUTHORITY: sections 332.031, RSMo 2000, 332.071, RSMo Supp. 2003 and 332.361 as amended by HCS/HB 1422 2004. Original rule filed Sept. 15, 2004.*



**PUBLIC COST:** This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at dental@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 110—Missouri Dental Board  
Chapter 4—Sedation**

**PROPOSED RULE**

**4 CSR 110-4.020 Conscious Sedation**

**PURPOSE:** This rule provides for the regulation of the administration of conscious sedation in a dental office.

(1) No dentist shall administer enteral and/or parenteral conscious sedation unless the dentist possesses a conscious sedation permit issued by the Missouri Dental Board. (A dentist is not required to possess a permit for the prescription or administration of Schedule II drugs prescribed for anxiolysis and/or pain control.) This permit shall be renewed by June 1 every five (5) years from the year of issuance.

(2) No dentist shall prescribe sedative agents for enteral sedation unless the dentist possesses an enteral or parenteral conscious sedation permit issued by the Missouri Dental Board. No dentist shall prescribe parenteral conscious sedation agents unless the dentist possesses a parenteral conscious sedation permit issued by the Missouri Dental Board.

(3) No dentist shall administer enteral and/or parenteral conscious sedation at a dental office unless the office has been issued a site certificate by the Missouri Dental Board. No dental office shall be the site for the administration of enteral and/or parenteral conscious sedation without being issued a site certificate by the Missouri Dental Board. This site certificate shall be renewed by June 1 every five (5) years from the year of issuance. The dentist-in-charge is responsible for submitting the application and maintaining the documentation as required in sections (8) and (10) of this rule.

(4) If the primary administrator of enteral and/or parenteral conscious sedation in a dental office is a physician anesthesiologist or a nurse anesthetist, the dentist must order the anesthesia services, is responsible for the readiness of the dental office, preoperative patient evaluation and appropriate medical consultations, the coordination of and emergency preparedness of the sedation team, and the maintenance of appropriate records. The dentist must evaluate the patient prior to the procedure, remain in the dental office, and evaluate the patient prior to discharge.

(5) To qualify for an enteral conscious sedation permit, a dentist shall:

(A) Document satisfactory completion of:

1. Training consistent with Part I and Part III of the American Dental Association (ADA) Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry; or

2. An ADA accredited post-doctoral training program that affords training necessary to administer enteral conscious sedation; or

3. An enteral conscious sedation course approved by the Missouri Dental Board; and

(B) Document completion during the past five (5) years of—

1. An Advanced Cardiac Life Support (ACLS) course; or

2. A minimum of fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthesia complications, or patient management while under sedation.

3. Additional hours, not to exceed five (5), acquired beyond the required number may be carried forward into the renewal cycle.

(6) To qualify for a permit to administer enteral and parenteral conscious sedation, a dentist shall:

(A) Document satisfactory completion of a postgraduate program which is approved or accredited to teach postgraduate dental or medical education by the ADA, the Accreditation Council for Graduate Medical Education of the American Medical Association (AMA), or the Education Committee of the AOA. This program shall include:

1. Sixty (60) hours of didactic training in pain and anxiety control and related subjects in accordance with the guidelines of the ADA;

2. Successful management of parenteral conscious sedation in twenty (20) patients;

3. General anesthesia training in which there is documented clinical experience in managing compromised airways;

4. Certification of competency by the course director in airway management; and

5. Certification of competency by the course director in parenteral conscious sedation;

(B) Document completion during the past five (5) years of—

1. An Advanced Cardiac Life Support (ACLS) course; or

2. A minimum of fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthesia complications, or patient management while under sedation.

3. Additional hours, not to exceed five (5), acquired beyond the required number may be carried forward into the renewal cycle.

(C) Successfully complete an on-site evaluation by consultants appointed by the board. On-site evaluations shall be conducted in accordance with 4 CSR 110-4.030.

(7) To qualify for a conscious sedation site certificate:

(A) The dentist-in-charge of the dental office shall document that:

1. The primary administrator of enteral and/or parenteral conscious sedation is a qualified sedation provider as set forth in 4 CSR 110-4.010(1)(S);

2. All conscious sedation team members (two (2) minimum) and the dentist, possess and maintain current certification in cardiopulmonary resuscitation (CPR), basic life support (BLS), or ACLS;

3. All conscious sedation team members, including the dentist, possess certification from a board approved course provider in monitoring conscious sedation;

4. The dental office is properly maintained and equipped as set forth in 4 CSR 110-4.030; and

5. The dental office has written protocols for sedation of dental patients as set forth in 4 CSR 110-4.030 including but not limited to the following:

A. Preoperative patient evaluation and selection prior to conscious sedation;

B. Informed consent procedures;

C. Sedation monitoring procedures;

D. Maintaining appropriate records during sedation procedures;

E. Patient discharge assessment; and



F. Responding to emergencies incident to the administration of enteral and/or parenteral conscious sedation.

(B) The dental office shall undergo a facility inspection as set forth in 4 CSR 110-4.030 to confirm the adequacy of the dental office and the competency of the sedation team.

(8) The board shall issue an enteral and/or parenteral conscious sedation permit upon receipt of a completed application form, payment of the appropriate fee specified in 4 CSR 110-2.170, proof of having met the requirements of sections (5) and/or (6) of this rule, and determination that the applicant is a licensee in good standing. To be in good standing the licensee's dental license(s) must be current and not under restriction or discipline in any state. The requirements of this section must be completed within one (1) year of the date of submission of the application form.

(9) The board shall issue a conscious sedation site certificate upon receipt of a completed application form, payment of the appropriate fee specified in 4 CSR 110-2.170, and proof of having met the requirements of section (7) of this rule. The requirements of this section must be completed within one (1) year of the date of submission of the application form.

(10) To renew a permit to administer enteral and/or parenteral conscious sedation a dentist shall, at least ninety (90) days prior to the expiration of the current permit:

(A) Submit a completed renewal application form provided by the board;

(B) Submit the renewal fee specified in 4 CSR 110-2.170 payable to the Missouri Dental Board; and

(C) Document completion during the past five (5) years of—

1. An Advanced Cardiac Life Support (ACLS) course; or,

2. A minimum of fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthesia complications, or patient management while under sedation.

3. Additional hours, not to exceed five (5), acquired beyond the required number may be carried forward into the renewal cycle.

(11) To renew a site certificate for enteral and/or parenteral conscious sedation the dentist-in-charge shall, at least ninety (90) days prior to the expiration of the current site certificate:

(A) Submit a completed renewal application form provided by the board;

(B) Submit the renewal fee specified in 4 CSR 110-2.170 payable to the Missouri Dental Board;

(C) Attest that the primary administrator of enteral and/or parenteral conscious sedation is a qualified sedation provider as set forth in 4 CSR 110-4.010(1)(S);

(D) Document that the sedation team, as well as the permitted dentist, possess and maintain current certification in CPR, BLS, or ACLS;

(E) Submit to the board a minimum of five (5) unedited, complete patient records of the permitted dentist, physician anesthesiologist, or nurse anesthetist administering conscious sedation in the dental office that may be chosen by the board from the preceding five (5) years, documenting management of conscious sedation patients in accordance with the criteria set forth in 4 CSR 110-4.030; and

(F) Undergo a facility inspection as set forth in 4 CSR 110-4.030 to confirm the adequacy of the dental office and the competency of the sedation team.

(12) A dentist holding a current intravenous conscious sedation (IVCS) permit or a parenteral conscious sedation permit on or before the effective date of this rule, shall be authorized to perform all means of parenteral conscious sedation set forth in 4 CSR 110-4.010(1)(P).

(13) A dentist holding a current IVCS permit or a parenteral conscious sedation permit on or before the effective date of this rule shall, upon renewal, receive a permit to administer enteral and parenteral conscious sedation upon compliance with the renewal requirements set forth in section (10) of this rule.

(14) A dentist holding a permit of authorization for the administration of deep sedation/general anesthesia under 4 CSR 110-4.040 may use conscious sedation without a permit for conscious sedation.

(15) The dentist-in-charge of a dental office in receipt of a conscious sedation site certificate must insure that the conscious sedation team meet the clinical requirements and the dental office meets the standards for utilization as set forth in 4 CSR 110-4.030.

(16) At any time, the board may inspect a dental office where conscious sedation is administered in order to verify compliance with the minimum requirements of this rule.

(17) If at any time the board learns that a dentist who holds a permit to administer enteral and/or parenteral conscious sedation, or a site certificate where enteral and/or parenteral conscious sedation is administered, has failed to meet the minimum qualifications set out in this rule, the board may pursue disciplinary action in accordance with section 332.321, RSMo.

(18) Due to narrow therapeutic dose ranges for conscious sedation, use of thiopental, methohexitol, and propofol for conscious sedation of dental patients will be restricted to qualified deep sedation/general anesthesia providers as defined in 4 CSR 110-4.040.

(19) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction.

*AUTHORITY: section 332.031, RSMo 2000 and 332.071 (SB 1122) and 332.361 (HB 1422) amended 2004. Original rule filed Sept. 15, 2004.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated twenty-three thousand four hundred eighty-three dollars and seventy-five cents (\$23,483.75) in FY06; three thousand six hundred five dollars and thirty-two cents (\$3,605.32) in FY07; three thousand seven hundred eleven dollars and fifty-two cents (\$3,711.52) in FY08; three thousand six hundred fifty-eight dollars and forty-two cents (\$3,658.42) in FY09; three thousand five hundred eighty-four dollars and three cents (\$3,584.03) in FY10; twenty-five thousand two hundred thirty-five dollars and forty-seven cents (\$25,235.47) in FY11; seven thousand five hundred twenty-nine dollars and sixty-four cents (\$7,529.64) in FY12; nine thousand nine hundred twenty-nine dollars and twenty-four cents (\$9,924.24) in FY13; eight thousand one hundred fifty-six dollars and nine cents (\$8,156.09) in FY14; seven thousand two hundred seventy-nine dollars and six cents (\$7,279.06) in FY15; and eight thousand nine hundred three dollars and ninety-two cents (\$8,903.92) in FY16. Because the board issues permits and certificates on a five (5)-year cycle, a continuous annual growth rate will occur based on the assumption of issuing twenty (20) permits and twenty-eight (28) certificates for the life of the rule. It is anticipated that the cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST: This proposed rule will cost private entities an estimated thirty-five thousand seven hundred forty-three dollars and thirty cents (\$35,743.30) in FY06; five thousand eight hundred seventy*

*dollars and seventy-two cents (\$5,870.72) in FY07; six thousand eight hundred seventy-four dollars and forty-two cents (\$6,874.42) in FY08; six thousand three hundred seventy-two dollars and fifty-seven cents (\$6,372.57) in FY09; five thousand six hundred sixty-nine dollars and ninety-eight cents (\$5,669.98) in FY10; thirty-nine thousand nine hundred ninety-six dollars and fifty-two cents (\$39,996.52) in FY11; eleven thousand four hundred eight-one dollars and eighty cents (\$11,481.08) in FY12; fourteen thousand four hundred eighty-eight dollars and forty-eight cents (\$14,488.48) in FY13; twelve thousand four hundred ninety-five dollars and fourteen cents (\$12,495.14) in FY14; eleven thousand eighty-nine dollars and ninety-six cents (\$11,089.96) in FY15; and forty-five thousand two hundred fifteen dollars and seventy-six cents (\$45,215.76) in FY16. Because the board issues permits and certificates on a five (5)-year cycle, a continuous annual growth rate will occur based on the assumption of issuing twenty-four (24) permits and twenty-eight (28) certificates for the life of the rule. It is anticipated that the cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.*

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at dental@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

## PUBLIC ENTITY FISCAL NOTE

### I. RULE NUMBER

**Title 4 -Department of Economic Development**

**Division 110 - Missouri Dental Board**

**Chapter 4 - Sedation**

**Proposed Amendment - 4 CSR 110-4.020 Conscious Sedation**

Prepared September 9, 2004 by the Division of Professional Registration

### II. SUMMARY OF FISCAL IMPACT TO THE MISSOURI DENTAL BOARD

FISCAL YEAR	PROCESS	NUMBER OF APPLICATIONS	ESTIMATED COST OF COMPLIANCE
FY06	Renewal - Current Individual Parenteral Conscious Sedation Permit - \$10.62	1	\$10.62
	Initial Conscious Sedation Permit - \$14.67	154	\$2,259.18
	Initial Site Certificate - \$114.67	185	\$21,213.95
Estimated FY06 Cost			\$23,483.75
FY07	Renewal - Current Individual Parenteral Conscious Sedation Permit - \$10.62	4	\$42.48
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY07 Cost			\$3,605.32
FY08	Renewal - Current Individual Parenteral Conscious Sedation Permit - \$10.62	14	\$148.68
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY08 Cost			\$3,711.52
FY09	Renewal - Current Individual Parenteral Conscious Sedation Permit - \$10.62	9	\$95.58
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY09 Cost			\$3,658.42
FY10	Renewal - Current Individual Parenteral Conscious Sedation Permit - \$10.62	2	\$21.24
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY10 Cost			\$3,584.08
FY11	Renewal - Conscious Sedation Permit - \$10.62	155	\$1,646.10
	Renewal - Current Site Certificates - \$114.67	189	\$21,672.63
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY11 Cost*			\$25,235.47
FY12	Renewal - Conscious Sedation Permit - \$10.62	28	\$297.36
	Renewal - Current Site Certificates - \$114.67	32	\$3,669.44
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY12 Cost*			\$7,529.64

FY13	Renewal - Conscious Sedation Permit - \$10.62	38	\$403.56
	Renewal - Current Site Certificates - \$114.67	52	\$5,962.84
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76

Estimated FY13 Cost\* \$9,929.24

FY14	Renewal - Conscious Sedation Permit - \$10.62	33	\$350.46
	Renewal - Current Site Certificates - \$114.67	37	\$4,242.79
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76

Estimated FY14 Cost\* \$8,156.09

FY15	Renewal - Conscious Sedation Permit - \$10.62	26	\$276.12
	Renewal - Current Site Certificates - \$114.67	30	\$3,440.10
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76

Estimated FY15 Cost\* \$7,279.06

FY16	Renewal - Conscious Sedation Permit - \$10.62	179	\$1,900.98
	Renewal - Current Site Certificates - \$114.67	30	\$3,440.10
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76

Estimated FY16 Cost\* \$8,903.92

### III. WORKSHEET

See Table Above.

### IV. ASSUMPTIONS

Fiscal Year	Individual Permits to be Renewed	Site Certificates to be Renewed	Individual Permits Issued	Site Certificate Issued
FY06	1	0	154	185
FY07	4	0	24	28
FY08	14	0	24	28
FY09	9	0	24	28
FY10	2	0	24	28
FY11	155	189	24	28
FY12	28	32	24	28
FY13	38	52	24	28
FY14	33	37	24	28
FY15	26	30	24	28
FY16	179	30	24	28

- Pursuant to 4 CSR 110-2.181, the board currently issues a permit for a specific dentist to administer parenteral conscious sedation at a specific dental office that has been certified by the board. For those licensees holding a parenteral conscious sedation permit and who also meet the requirements 4 CSR 110-4.020, they will now be issued a conscious sedation permit. Under the new rule, the permit and certificate are issued separately allowing the dentist to administer conscious sedation at any site that has been certified by the board.

The conscious sedation permits and certificates will be issued on a 5 year cycle. The board expects by FY11, all parenteral conscious sedation permits will have expired and those individuals will be issued a conscious sedation permit and certificate pursuant to 4 CSR 110-4.020. The table above shows the number of permits and certificates issued and renewed during the fiscal years of FY06-FY16. For fiscal years that follow FY16 and for the purpose of this fiscal note, the board is assuming after the first year of implementation, 24 permits and 28 certificates will be issued annually.



2. CALCULATION OF EXPENSE AND EQUIPMENT AND PERSONAL SERVICE COSTS:

Salaries for the Executive Director, Executive I and Licensure Technician II are shared with another board. The .05 Licensure Technician II position is supported entirely by the Missouri State Dental Board. The figures below represent the personal service costs supported by the Missouri Dental Board.

Employee's salaries were calculated using their annual salary multiplied by 40.47% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	ANNUAL SALARY WITH FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME	COST PER APPLICATION
Executive Director	\$43,344.00	\$60,885.32	\$29.27	\$0.49	5	\$2.44
Executive I	\$28,682.40	\$40,290.17	\$19.37	\$0.32	15	\$4.84
Licensure Technician II	\$20,702.40	\$29,080.66	\$13.98	\$0.23	2.5	\$0.58
Office Support Assistant	\$20,349.00	\$28,584.24	\$13.74	\$0.23	5	\$1.15
Total Personal Service Cost for Board Staff Per Application/Renewal						\$11.21

It is estimated that the following staff time will be devoted on each initial application and/or renewal for the following duties:

Executive Director - Reviews problem permit applications, brings information to the board to be discussed at next meeting, answers technical questions, prepares technical correspondence, prepares rule language, tracks and testifies on legislation relating to General Anesthesia and Conscious Sedation, discusses policies and procedures with Board Members and staff. Estimated time per initial application and/or renewal - 5 minutes

Executive I - Answers technical questions regarding permits and assist Licensing Tech II with the processing and renewal of the permits, assist in the preparation of rules. Estimated time per initial application and/or renewal - 5 minutes

Licensing Tech II - Receives and processes request for permit application packets, processes applications and accompanying documentation, arranges on site visits, monitors current permit holders for renewal dates, prepares and sends renewal applications, receives renewal applications and accompanying documentation, prepares documents for site evaluator. If evaluator approves, processes the renewal or prepares correspondence to applicant identifying deficiencies and/or arranges an on-site evaluation. Estimated time per initial application and/or renewal - 15 minutes

Licensing Tech II - Receives money, reconciles and deposits all fees. Processes per diem requests received from consultants conducting site inspections. Estimated time per initial application and/or renewal - 2.5 minutes

Office Support Assistant (5 minutes) - Opens mail, records money, sets up preliminary file in the division licensing system. Estimated time per initial application and/or renewal - 5 minutes

Board Consultants - Licensees approved by the board to conduct site inspections and receive \$50.00 per day per diem for those services. A team of 2 consultants evaluate the dental office to confirm the adequacy of the facility and competency of the personnel.

**Expense and Equipment and Personal Service Dollars for Initial Applications**

Application Printing	\$0.25
Evaluation Form Printing	\$0.19
Practice Act Printing	\$1.93
Letterhead Printing	\$0.15
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$2.21
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
<b>Total Expense and Equipment Cost:</b>	<b>\$5.75</b>

**Expense and Equipment and Personal Service Dollars for Renewal of Permits/Certificates**

Application Printing	\$0.15
Evaluation Form Printing	\$0.19
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$0.34
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
<b>Total Expense and Equipment Cost:</b>	<b>\$1.70</b>

Based on the above figures the following estimates represent the cost of each application/renewal process:

- Initial Conscious Sedation Permits:

Expense and Equipment	\$5.75
Personal Services	\$11.21
<b>Total Cost</b>	<b>\$16.96</b>

- Initial Site Certificate Application Costs:

Expense and Equipment	\$5.75
Personal Services	\$111.21
<b>Total Cost</b>	<b>\$116.96</b>

- Renewal of Conscious Sedation Permit:

Expense and Equipment	\$1.70
Personal Services	\$11.21
<b>Total Cost</b>	<b>\$12.91</b>

- Renewal of Site Certificate:

Expense and Equipment	\$1.70
Personal Services	\$111.21
<b>Total Cost</b>	<b>\$112.91</b>

3. Because the board issues permits and certificates on a five year cycle, a continuous growth rate will occur based on the assumption of issuing 24 permits and 28 certificates annually.
4. The figures for FY06-10 are based on the current number of permits issued by the board. The estimated growth rate is based merely on data gathered by the board for this fiscal note and is merely an estimate of future activity.
5. The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 110 - Missouri Dental Board**

**Chapter 4 - Sedation**

**Proposed Amendment - 4 CSR 110-4.020 Conscious Sedation**

Prepared September 9, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Fiscal Year</b>	<b>Classification by types of entities likely to be affected</b>	<b>Estimated number of entities affected</b>	<b>Estimated Cost of Compliance</b>
FY06	Renewal - Parenteral Conscious Sedation Permit - \$100	1	\$100.00
	Initial Conscious Sedation Permit - \$100	154	\$15,400.00
	Initial Site Certificate - \$100	185	\$18,500.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	154	\$770.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	339	\$847.50
	Postage (Applications for and Renewal of Permits and Certificates)	340	\$125.80

**Estimated FY06 Cost      \$35,743.30**

FY07	Renewal - Parenteral Conscious Sedation Permit - \$100	4	\$400.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	56	\$20.72

**Estimated FY07 Cost      \$5,870.72**

FY08	Renewal - Parenteral Conscious Sedation Permit - \$100	14	\$1,400.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	66	\$24.42

**Estimated FY08 Cost      \$6,874.42**

FY09	Renewal - Parenteral Conscious Sedation Permit - \$100	9	\$900.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	61	\$22.57

Estimated FY09 Cost \$6,372.57

FY10	Renewal - Parenteral Conscious Sedation Permit - \$100	2	\$200.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	54	\$19.98

Estimated FY10 Cost \$5,669.98

FY11	Renewal - Conscious Sedation Permit - \$100	155	\$15,500.00
	Renewal - Site Certificates - \$100	189	\$18,900.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	396	\$146.52

Estimated FY11 Cost \$39,996.52

FY12	Renewal - Conscious Sedation Permit - \$100	28	\$2,800.00
	Renewal - Site Certificates - \$100	32	\$3,200.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	84	\$31.08

Estimated FY12 Cost \$11,481.08



FY13	Renewal - Conscious Sedation Permit - \$100	38	\$3,800.00
	Renewal - Site Certificates - \$100	52	\$5,200.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	104	\$38.48

Estimated FY13 Cost \$14,488.48

FY14	Renewal - Conscious Sedation Permit - \$100	33	\$3,300.00
	Renewal - Site Certificates - \$100	37	\$3,700.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	122	\$45.14

Estimated FY14 Cost \$12,495.14

FY15	Renewal - Conscious Sedation Permit - \$100	26	\$2,600.00
	Renewal - Site Certificates - \$100	30	\$3,000.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	108	\$39.96

Estimated FY15 Cost \$11,089.96

FY16	Renewal - Conscious Sedation Permit - \$100	179	\$17,900.00
	Renewal - Site Certificates - \$100	217	\$21,700.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	448	\$165.76

Estimated FY16 Cost \$45,215.76

**III. WORKSHEET**

See Table Above.

**IV. ASSUMPTIONS**

	Individual Permits to be Renewed	Site Certificates to be Renewed	Individual Permits Issued	Site Certificate Issued
FY06	1	0	154	185
FY07	4	0	24	28
FY08	14	0	24	28
FY09	9	0	24	28
FY10	2	0	24	28
FY11	155	189	24	28
FY12	28	32	24	28
FY13	38	52	24	28
FY14	33	37	24	28
FY15	26	30	24	28
FY16	179	217	24	28

1. Pursuant to 4 CSR 110-2.181, the board currently issues a permit for a specific dentist to administer parenteral conscious sedation at a specific dental office that has been certified by the board. For those licensees holding a parenteral conscious sedation permit and who also meet the requirements 4 CSR 110-4.020, they will now be issued a conscious sedation permit. Under the new rule, the permit and certificate are issued separately allowing the dentist to administer conscious sedation at any site that has been certified by the board.

The conscious sedation permits and certificates will be issued on a 5 year cycle. The board expects by FY11, all parenteral conscious sedation permits will have expired and those individuals will be issued a conscious sedation permit and certificate pursuant to 4 CSR 110-4.020. The table above shows the number of permits and certificates issued and renewed during the fiscal years of FY06-FY16. For fiscal years that follow FY16 and for the purpose of this fiscal note, the board is assuming after the first year of implementation, 24 permits and 28 certificates will be issued annually.

2. The figures for FY06-10 are based on the current number of parenteral conscious sedation permits issued by the board. The estimated rate for the new conscious sedation permits and site certificates is based merely on data gathered by the board for this fiscal note and is merely an estimate of future activity.
4. The total annual will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**NOTE:** The board is statutorily obligated to enforce and administer the provisions of Chapter 332, RSMo. Pursuant to Section 332.031, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 332, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 332, RSMo.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 110—Missouri Dental Board  
Chapter 4—Sedation**

**PROPOSED RULE**

**4 CSR 110-4.030 Guidelines for Administration of Conscious Sedation**

*PURPOSE: This rule provides for the requirements and guidelines dentists are required to follow in the administration of sedative drugs.*

**(1) Introduction.**

(A) These guidelines are provided to certificate holders in the administration of enteral or parenteral conscious sedation.

(B) Implicit in the administration of sedative drugs is the dictum that they be used in a safe and effective manner.

(C) The goals of conscious sedation are:

1. Sufficient control of patient behavior to enable the practitioner to provide quality treatment;
2. Prompt recovery so that the patient leaves the office in a state of consciousness as close to normal for that patient as possible; and
3. Promotion of a positive psychological response to treatment.

**(2) Patient Records.**

(A) The patient's record shall provide a legible database that aids in treatment planning and selection of the sedation technique and shall furnish the following:

**1. Database:**

- A. Full name;
- B. Address (home and work);
- C. Telephone number (home and work);
- D. Date of birth and sex;
- E. Height and weight;
- F. Name of parent or guardian, if applicable;
- G. Name and telephone number of person to notify in event of emergency; and
- H. Patient's physician's name and telephone number.

**2. Medical history:**

A. Chief complaint followed by history of the present illness or a brief statement about the patient's problem; and

B. Past medical history and systems review including, but not limited to:

- (I) Physician(s) of record;
- (II) Hospitalizations within the last five (5) years;
- (III) Allergies;
- (IV) Present medications (prescription, nonprescription, homeopathic): dosages, intervals, and recent changes;
- (V) Major medical illnesses, disorders or abnormalities;
- (VI) Prior anesthetic complications;
- (VII) Breathing or respiratory difficulties;
- (VIII) Previous hospitalizations;
- (IX) Review of the following with interrogative clarification of positive responses:

- (a) Myocardial infarction;
- (b) Hepatitis or liver disease;
- (c) Hypertension;
- (d) Renal disease;
- (e) Dysrhythmias;
- (f) Anemia;
- (g) Angina;
- (h) Bleeding dyscrasias;
- (i) Heart murmur;
- (j) Human immunodeficiency virus (HIV);
- (k) Congestive heart failure;
- (l) Mitral valve prolapse;
- (m) Rheumatic fever;

- (n) Artificial joint; and
- (o) Diabetes.

**3. Core physical examination:**

- A. Observation of patient's physical stature, posture, and relative ambulatory ability;
- B. Observation of patient's attentiveness, responsiveness, and verbal ability;
- C. Oral examination;
- D. Potential airway problems;
- E. Baseline blood pressure, heart rate and rhythm, and respiration rate;
- F. Temperature—only if necessary for present problem.

**(3) Pre-Operative Patient Evaluation and Selection.**

(A) Patients who are administered enteral or parenteral conscious sedation must be suitably evaluated to include, but not be limited to the following:

1. An appropriate review of the patient's database by the dentist to determine that data pertaining to all of the following are present:

- A. Patient age;
- B. Patient weight;
- C. Individual responsible for informed consent; and
- D. Emergency contact person and telephone number;

2. An appropriate review of the medical history with opportunity for interrogative clarification by the dentist. The record must indicate that the dentist reviewed the medical history;

3. An appropriate review of the core physical examination. The record must indicate the dentist reviewed the findings;

4. An appropriate review of all medications used by the patient, both prescription and non-prescription. The record must indicate the dentist reviewed the medication inventory;

5. Documented American Society of Anesthesiologist classification; and

6. Documented consultation with physicians of record when indicated.

**(4) American Society of Anesthesiologists (ASA) Classifications** must be documented and substantiated.

**(A) American Society of Anesthesiologists (ASA) classifications:**

1. Class I—There is no organic, physiologic, biochemical, or psychiatric disturbance. The pathological process for which the operation is to be performed is localized and is not a systemic disturbance. The patient has no limits on his/her activity level, and in general is to be considered in good or excellent health.

2. Class II—Mild-to-moderate systemic disturbance caused either by the condition to be treated surgically or by other pathophysiological processes. The disease processes are stable or medically controlled and they are not functionally limiting. Examples: tightly-controlled insulin or non-insulin dependent diabetes; stable asthma; symptomatic hypertension; controlled thyroid disease; smoker; obesity; or severe anxiety.

3. Class III—Severe systemic disturbance or disease from whatever cause, even though it may not be possible to define the degree of disability with finality. Activity is significantly limited by the disease, but is not totally incapacitating. The patient may easily decompensate under stress. Examples: severe asthma; poorly controlled diabetes mellitus; angina, especially if unstable or frequent; status post (S/P) myocardial infarction of cerebral vascular accident (CVA) less than six (6) months ago.

4. Class IV—Indicative of the patient with severe systemic disorder that is a constant threat to life and not always correctable by the operative procedure. Functionally incapacitating; a totally unstable patient who is in and out of lethal states. Examples: unstable angina; congestive heart failure/chronic obstructive pulmonary disease (CHF/COPD) requiring supplemental oxygen (O<sub>2</sub>) or wheelchair confinement, uncontrolled systemic disease (diabetes mellitus); or symptomatic dysrhythmias.

5. Class V—The moribund patient who has little chance of survival but is submitted to operation in desperation. A hospitalized patient of the expectant category.

(B) Healthy or medically stable individuals (ASA Class I or II) require a review of the patient's current medical history and medications.

(C) Patients who may not be medically stable or who have a significant health disability (ASA III) require a medical consultation from a physician. ASA III patients who are treated in the office setting must have evidence of the dentist's consultation with the treating physician (written or oral) in the record. Such consultation should elicit the physician's concurrence with decision to utilize the proposed office sedative technique.

(D) ASA III, IV, and V patients are not candidates for enteral sedation.

(E) ASA IV and V patients are not candidates for parenteral sedation outside a hospital setting.

#### (5) Informed Consent.

(A) Appropriate informed consent must be obtained prior to administration of enteral or parenteral conscious sedation.

(B) All of the following requirements for informed consent must be satisfied and documented prior to administration of conscious sedation:

1. The patient and/or guardian must be advised of the specific procedure inducing enteral or parenteral conscious sedation;

2. The patient and/or guardian must be advised of the risks associated with the delivery of enteral or parenteral conscious sedation;

3. The patient and/or guardian must be advised of the options to the delivery of the enteral or parenteral conscious sedation;

4. The patient or the guardian must be advised that unforeseen circumstances do occur and the dentist and the sedation team need permission in advance to change the plan of treatment if it is deemed in their professional judgement to be in the best interest of the patient;

5. The patient and/or guardian must be afforded the opportunity to have concerns and questions addressed by the dentist; and

6. The patient and/or guardian's consent must be documented.

(C) Refer to section (16) for a sample conscious sedation informed consent.

#### (6) Sedation Documentation Requirements.

(A) A time oriented anesthesia record must be documented including the dosage and administration of drugs and physiologic data obtained during patient monitoring.

(B) At a minimum, the anesthetic record must contain the following:

1. Names of the qualified sedation provider and sedation team members (dentist, anesthetist, assistants);

2. Date;

3. Documentation of nothing by mouth;

4. Vital signs recorded (blood pressure, pulse rate, and percent of O<sub>2</sub> saturation):

A. Preoperatively;

B. After delivery of initial medications (to include the local anesthesia); and

C. At a minimum every fifteen (15) minutes throughout the procedure;

5. Start and finish times for the anesthesia procedure and the operative procedure;

6. Agents delivered (name, dosage, route of administration, and flow rates);

7. Local anesthetics;

8. Inhalation agents;

9. Sedatives;

10. When medications are prescribed or dispensed, a copy of the prescription or a notation describing the medication should be in the patient's chart with the instructions for use;

11. Complications or unusual reactions (all pertinent data, vital signs, and/or medications, etc.); and

12. Discharge status.

(C) Monitoring data must be documented by qualified personnel capable of physical assessment of a sedated patient.

#### (7) Monitoring Procedures.

(A) Conscious sedation patients shall be monitored under the direct and continuous supervision of a sedation team member.

(B) For the purpose of supervising and monitoring a consciously sedated patient members of the sedation team shall be:

1. Capable of physical assessment of a sedated patient;

2. Certified in Basic Life Support (BLS), Cardiopulmonary Resuscitation (CPR), or Advanced Cardiopulmonary Life Support (ACLS);

3. Certified in monitoring conscious sedation from a board approved course provider; and

4. Knowledgeable about medical emergency response incident to the use of enteral and parenteral conscious sedation, including the use of resuscitation equipment and emergency medications.

(C) Strict reliance on measuring a single physiologic parameter may be not only misleading but also potentially hazardous. As a rule, no single symptom may be diagnostic of a particular condition, but rather the total patient must be evaluated.

(D) Monitoring criteria include:

1. Oxygenation. Color of mucosa, skin or blood shall be continually evaluated. Oxygen saturation must be evaluated continuously by pulse oximetry;

2. Ventilation. Observation of chest excursions and/or auscultation of breath sounds; and

3. Circulation. Record initial blood pressure and pulse and thereafter, as appropriate.

(E) Monitoring methods can be divided into mechanical and non-mechanical means.

1. Non-mechanical means shall include:

A. Patient and blood color;

B. Respiratory rate, depth and rhythm;

C. Patient's response to verbal conversation is an excellent gauge to depth of sedation. Is it quick, appropriate, and clear, or is it difficult to obtain, inappropriate and markedly slurred;

D. Body posturing; and

E. Skin status.

2. Mechanical means shall include:

A. Blood pressure and pulse rate;

B. Pulse oximetry; and

C. Pretracheal stethoscope, electrocardiogram (ECG) and temperature monitor, if appropriate.

(F) A consciously sedated patient must have direct and continuous supervision and monitoring until oxygenation, respiration, and circulation are stable and the patient is appropriately responsive for discharge from the facility.

#### (8) Discharge Assessment and Procedures.

(A) The final responsibility for determining whether a patient is appropriately responsive and stable for discharge rests solely with the dentist. This may be done in consultation with a nurse anesthetist or physician anesthesiologist.

(B) Patients who have unusual reactions to enteral or parenteral conscious sedation shall be assisted and monitored until stable for discharge. Recovery must be documented.

(C) The patient must be continually observed during the recovery period and discharged only when the following criteria are met:

1. Cardiovascular function is satisfactory and stable;

2. Airway patency is uncompromised and satisfactory;

3. Patient is easily arousable and protective reflexes intact;



4. Patient's state of hydration is adequate;
5. Patient can verbalize appropriately;
6. Patient can sit unaided;
7. Patient can ambulate with minimal precautionary assistance;
8. For a very young child or disabled patient, the pre-sedated level of responsiveness should be achieved;
9. Appropriate post-discharge supervision confirmed; and
10. Post-operative instructions reviewed with individual responsible for post-discharge supervision.

(9) Personnel.

(A) The minimum number of individuals available to support a sedated patient shall be three (3): the dentist and two (2) members of the sedation team, which may include a nurse anesthetist or physician anesthesiologist.

(B) All individuals that may be called upon to be responsible for supervising and monitoring sedated patients shall be qualified as set forth in (7)(B).

(10) Facilities and Equipment.

(A) Access and egress to the dental facility and the operatories used for conscious sedation shall meet the requirements of the Americans with Disabilities Act (ADA) and allow access for emergency medical personnel and equipment.

(B) The operatory should be large enough to permit personnel to move freely about the patient. Monitors shall be positioned for easy visualization.

(C) The operating table or dental chair should be positioned to permit personnel to maintain the airway, allow quick alteration of patient position, provide a firm platform for the management of cardiopulmonary resuscitation, and provide access to the patient's oral cavity.

(D) The recovery area, whether the operatory or a separate area, shall allow continuous patient visualization by personnel and have sufficient room to treat any emergency. Further, it shall be equipped with systems to allow appropriate monitoring, for providing oxygen under pressure and suction, and provide adequate lighting and electrical outlets.

(E) Equipment shall include:

1. A suction system allowing tonsillar (enteral sedation) and catheter suction (parenteral sedation);
2. A positive pressure oxygen delivery system accommodating both adult and pediatric patients (if pediatric patients are treated);
3. Inhalation anesthetic systems coded to prevent accidental administration of the wrong gas and equipped with a fail-safe mechanism;
4. A portable oxygen unit with appropriate accessories;
5. A pulse oximetry monitor;
6. A defibrillator (an automatic defibrillator is recommended).

(F) An electrocardiograph is recommended equipment if the primary administrator of enteral and/or parenteral conscious sedation is competent in its use and interpretation.

(G) Backup systems shall include:

1. A protocol for obtaining emergency assistance;
2. Battery-powered lighting of sufficient intensity to complete any procedure; and
3. Backup suction sufficient to complete any procedure.

(11) Resuscitation Equipment.

(A) An emergency kit should be readily accessible and portable. It should contain drugs and equipment of appropriate sizes to resuscitate a non-breathing, unconscious patient who may also be suffering varying degrees of cardiovascular collapse to sustain life until responsibility for the patient's care is assumed by appropriate medical personnel (e.g., emergency medical technicians (EMTs), physician, emergency room personnel).

(B) Resuscitation equipment shall be immediately accessible and appropriate for the route of administration of the permit holder:

(C) All conscious sedation permit holders should have immediate access to:

1. Airway and ventilation equipment;
    - A. Oxygen;
    - B. Full face masks of appropriate sizes to accommodate all sedated patients;
    - C. Mechanism to deliver O<sub>2</sub> with positive pressure;
    - D. Equipment for performing an emergency cricothyroidotomy; and
    - E. Nasopharyngeal and oral airways;
  2. Tonsillar suction;
  3. Syringes and needles for intravenous (IV) drug administration; and
  4. Unexpired medications as set forth in section (15).
- (D) In addition, parenteral conscious sedation permit holders should have immediate access to:
1. IV solutions and equipment for establishment of an IV route, and appropriate fluids;
  2. Sterile water for injection and/or mixing or dilution of drugs;
  3. Catheter suction; and
  4. Syringes and needles for IV drug administration.

(12) Site Certificate.

(A) No facility shall be the site for the administration of enteral and/or parenteral conscious sedation without being issued a site certificate pursuant to 4 CSR 110-4.020.

(B) The board may require a facility requesting a site certificate for conscious sedation undergo a facility inspection. Facility inspections will be conducted by board appointed consultants from the Conscious Sedation Evaluation Committee of the Missouri Dental Board. A facility inspection will be deemed satisfactory when all criteria in subsections (12)(C) and (D) of this rule have been satisfactorily met.

1. All parenteral sedation permit applicants shall receive an on-site evaluation;

2. Enteral conscious sedation permit applicants may receive an on-site evaluation; and

3. The board may, at any time, inspect a facility where conscious sedation is administered in order to verify compliance with the minimum requirements of the conscious sedation rule.

(C) The facility shall be properly maintained and equipped. The dentist-in-charge shall verify via notarized affidavit the following exists and is in good working order:

1. Adequate access and egress for emergency medical personnel to dental facility and operatories used for sedation;
2. Operatory and recovery room design enables appropriate monitoring and emergency response;
3. Emergency kit is accessible, portable, and contains drugs and equipment of appropriate sizes to resuscitate a non-breathing, unconscious patient;
4. Positive pressure oxygen and appropriate face masks;
5. Portable oxygen;
6. Tonsillar vacuum;
7. Pulse oximetry;
8. Pretracheal stethoscope;
9. Nasopharyngeal and oral airways;
10. Battery-powered lighting of sufficient intensity to complete any procedure;
11. Backup suction to complete any procedure; and
12. Defibrillator.

(D) Sedation team members shall be capable of safely executing procedures associated with enteral and/or parenteral conscious sedation. The dentist-in-charge shall verify the following via notarized affidavit:

1. The primary administrator of enteral and/or parenteral conscious sedation is a qualified sedation provider as defined in subsection (1)(Q) of 4 CSR 110-4.010 who maintains current certification and licensure in their field of practice;

2. Appropriate patient records are maintained as set forth in section (2) of this rule.

3. Appropriate patient selection criteria are employed as set forth in sections (3) and (4) of this rule. The dentist-in-charge and permitted dentists should be prepared to demonstrate knowledge of physical evaluation of patients, ASA classifications, and their application to appropriate patient selection;

4. Appropriate informed consent is utilized as set forth in section (5) of this rule;

5. Time oriented anesthesia records are appropriately maintained as set forth in section (6) of this rule;

6. Direct and continuous monitoring of sedated patients is accomplished by sedation team members through recovery until discharge as set forth section (7) of this rule;

7. Appropriate documentation occurs for the management and treatment of sedated patients; and

8. Appropriate criteria are in place to determine when a patient can be safely discharged and appropriate post-operative instructions are given to responsible individuals who will supervise the sedated patient after discharge as set forth in section (8) of this rule.

(E) The sedation team shall be capable of responding to emergencies incident to the administration of enteral and/or parenteral conscious sedation. The sedation team should be prepared for the following emergencies and be competent in simulated responses:

1. General emergency response protocol;
2. Laryngospasm;
3. Acute airway obstruction;
4. Cardiopulmonary arrest;
5. Allergic reaction to drugs;
6. Hypotension;
7. Angina pectoris;
8. Possible myocardial infarction;
9. Emesis and aspiration of vomitus; and
10. Convulsions.

#### (13) Board Approved Courses.

(A) A course satisfying the educational requirements for an enteral conscious sedation permit shall include, but not be limited to:

1. Appropriate definitions;
2. Appropriate patient records;
3. Review of history and physical evaluation;
4. ASA classification;
5. Indications for medical consultations;
6. Appropriate patient selection;
7. Properly maintained and equipped facilities;
8. Informed consent;
9. Pharmacological review of common sedatives and reversal agents;
10. Time oriented anesthesia record;
11. Monitoring and assessment of the sedated patient during treatment and recovery;
12. Appropriate documentation of the management and treatment of sedated patients;
13. Appropriate discharge criteria;
14. Post-sedation instructions;
15. Response to most common emergencies incident to administration of conscious sedation; and
16. An examination measuring knowledge required of a dentist essential for safe and efficient conscious sedation of dental patients.

(B) The sedation monitoring course content shall include, but not be limited to:

1. Appropriate definitions;
2. Appropriate patient records;
3. Reviewing patient records for essential data and screening medical histories;
4. ASA classification and appropriate patient selection;
5. Properly maintained and equipped facilities;
6. Informed consent;

7. Time oriented anesthesia record;

8. Monitoring and assessment of the sedated patient during treatment and recovery;

9. Appropriate documentation of the management and treatment of sedated patients;

10. Appropriate discharge criteria;

11. Auxiliary roles in response to most common emergencies incident to administration of conscious sedation; and

12. An examination measuring knowledge necessary for safe, effective monitoring of a sedated dental patient.

#### (14) References.

##### (A) *Office Anesthesia Evaluation Manual*

American Association of Oral and Maxillofacial Surgeons  
9700 West Bryn Mawr Ave  
Rosemont, IL 60018

##### (B) *Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists*

American Dental Association  
211 East Chicago Avenue  
Chicago, IL 60611-2678

#### (15) Emergency Drugs.

##### (A) Minimum required emergency drugs for enteral sedation.

1. Ammonia carpules;
2. Antihistamines;
3. Benzodiazepine antagonist;
4. Bronchodilator inhaler;
5. Concentrated glucose fifty percent (50%), cake icing, candy, orange juice);
6. Epinephrine (1:1,000 at a minimum); and
7. Nitroglycerin.

##### (B) Minimum required emergency drugs for parenteral sedation.

1. Ammonia carpules;
2. Antihistamines;
3. Atropine (or related drugs);
4. Benzodiazepine antagonist;
5. Bronchodilator inhaler;
6. Concentrated glucose fifty percent (50%), cake icing, candy, orange juice);
7. Corticosteroid;
8. Epinephrine (1:1,000 at a minimum);
9. Narcotic antagonist; and
10. Nitroglycerin.

##### (C) Suggested but not required emergency drugs.

1. Aminophylline;
2. Hyperstat or Lobatalol (or related drugs);
3. Lidocaine (one hundred (100) mg injectables);
4. Sodium bicarbonate; and
5. Succinylcholine chloride.

#### (16) Sample Informed Consent for Conscious Sedation.

The purpose of this document is to provide an opportunity for patients to understand and give permission for conscious sedation when provided along with dental treatment. Each item should be checked off after the patient has the opportunity for discussion and questions.

\_\_\_\_ 1. I understand that the purpose of conscious sedation is to more comfortably receive necessary care. Conscious sedation is not required to provide the necessary dental care. (See #4 options.)

\_\_\_\_ 2. I understand that conscious sedation is a drug-induced state of reduced awareness and decreased ability to respond. Conscious sedation is not sleep from which I can be easily awakened. My ability to respond normally returns when the effects of the sedative wear off.

\_\_\_\_ 3. I understand that my conscious sedation will be achieved by the following route:

\_\_\_\_\_ Oral Administration: I will take a pill approximately \_\_\_\_\_ minutes before my appointment. The sedation will last approximately \_\_\_\_\_ to \_\_\_\_\_ hours. Patients like oral sedation because they do not need an "IV" line. However the level of sedation is less predictable than with "IV" sedation.

\_\_\_\_\_ Intravenous (IV) Administration: The doctor will inject the sedative in a tube connected to a vein in my arm. The length of sedation may be shorter and the level more predictable than with oral sedation. The IV sedation will last approximately \_\_\_\_\_ to \_\_\_\_\_ hours.

\_\_\_\_\_ 4. I understand that the options to conscious sedation are:  
a. No sedation: The necessary procedure is performed under local anesthetic with the patient fully aware.

b. Nitrous oxide sedation: Commonly called laughing gas, nitrous oxide provides relaxation but the patient is still generally aware of surrounding activities. Its effects can be reversed in five (5) minutes with oxygen.

c. General anesthetic: Commonly called deep sedation, a patient under general anesthetic has no awareness and must have their breathing temporarily supported. General anesthesia is more appropriate for longer procedures lasting three (3) or more hours.

\_\_\_\_\_ 5. I understand that there are risks or limitations to all procedures. For sedation these include:

\_\_\_\_\_ (Oral Sedation) Inadequate sedation with initial dosage may require the patient to undergo the procedure without full sedation or delay the procedure for another time. Due to unpredictable patient response, it is not recommended that oral sedatives be given in successive or additive doses.

\_\_\_\_\_ An atypical reaction to sedative drugs that may require emergency medical attention and/or hospitalization.

\_\_\_\_\_ Inability to discuss treatment options with the doctor should the circumstance require a change in treatment plan.

\_\_\_\_\_ 6. If, during the procedure, a change in treatment is required, I authorize the dentist and the sedation team to make whatever change they deem in their professional judgment is necessary.

\_\_\_\_\_ 7. I have had the opportunity to discuss conscious sedation and have my questions answered by sedation team members including the dentist, if I so desire.

\_\_\_\_\_ 8. I hereby consent to conscious sedation in conjunction with my dental care.

\_\_\_\_\_  
Patient/Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

**AUTHORITY:** sections 332.031, RSMo 2000 and 332.071 (SB 1122) and 332.361 (HB 1422) amended 2004. Original rule filed Sept. 15, 2004.

**PUBLIC COST:** This proposed rule will not cost state agencies or political subdivision more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing to (573) 751-8216 or via e-mail at dental@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 110—Missouri Dental Board  
Chapter 4—Sedation**

**PROPOSED RULE**

**4 CSR 110-4.040 Deep Sedation/General Anesthesia**

**PURPOSE:** This rule provides for the regulation of the administration of deep sedation/general anesthesia.

(1) No dentist shall administer deep sedation/general anesthesia unless the dentist possesses a permit issued by the Missouri Dental Board. This permit shall be renewed by June 1 every five (5) years from the date of issuance.

(2) No dental office shall be the site for the administration of deep sedation/general anesthesia without being issued a site certificate issued by the Missouri Dental Board. The site certificate shall be renewed by June 1 every five (5) years from the date of issuance. The dentist-in-charge is responsible for submitting the application and maintaining the documentation as required in sections (6) and (8) of this rule.

(3) No dentist shall prescribe deep sedation/general anesthesia agents unless the dentist possesses a deep sedation/general anesthesia permit.

(4) If the primary administrator of deep sedation/general anesthesia in a dental office is a physician anesthesiologist or a nurse anesthetist, the dentist must order the anesthesia services, is responsible for the readiness of the dental office, preoperative patient evaluation and appropriate medical consultations, the coordination of and emergency preparedness of the anesthesia team, and the maintenance of appropriate records. The dentist must evaluate the patient prior to the procedure, remain in the dental office, and evaluate the patient prior to discharge.

(5) To qualify for a permit to administer deep sedation/general anesthesia, a dentist shall:

(A) Document satisfactory completion of:

1. A post-doctoral training program in anesthesia and related subjects that satisfies the requirements described in Part II of the American Dental Association (ADA) *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry* at the time the training was commenced; or

2. An ADA accredited post-doctoral training program in oral and maxillofacial surgery; or

3. An anesthesia training program that is approved and accredited to teach postgraduate medical education by the Accreditation Council for Graduate Medical Education of the American Medical Association (AMA), or the Education Committee of the American Osteopathic Association (AOA); and

(B) Document completion of an Advanced Cardiac Life Support (ACLS) course or board-approved equivalent during the past five (5) years or a minimum of fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthetic complications, or patient management while under deep sedation/general anesthesia. Additional hours, not to exceed five (5), acquired beyond the required number may be carried forward into the renewal cycle;

(C) Successfully complete an on-site evaluation as defined in subsection (6)(C) of this rule; and

(D) Document that the facility to be used for deep sedation/general anesthesia has been issued a deep sedation/general anesthesia site certificate.



(6) To qualify for a deep sedation/general anesthesia site certificate the dental office must—

(A) Be properly equipped in accordance with the American Association of Oral and Maxillofacial Surgeons (AAOMS) *Office Anesthesia Evaluation Manual*, including but not limited to the capability of delivering positive pressure oxygen, blood pressure and electrocardiographic (ECG) monitoring and pulse oximetry;

(B) Have and maintain personnel capable of handling procedures and emergencies incident to the administration of deep sedation/general anesthesia;

(C) Undergo and successfully complete an on-site evaluation by consultants appointed by the board to confirm the adequacy of the facility and competency of the personnel. On-site evaluations shall be conducted in accordance with guidelines in the current AAOMS *Office Anesthesia Evaluation Manual*; and

(D) The dentist in charge of the dental office shall document that:

1. The administrator of deep sedation/general anesthesia is a qualified sedation provider as defined in 4 CSR 110-4.030; and

2. All anesthesia team members, including the operating dentist, possess and maintain current certification in cardiopulmonary resuscitation (CPR) or basic life support (BLS).

(7) The board shall issue a deep sedation/general anesthesia permit upon receipt of a completed application form provided by the board, payment of the appropriate fee, proof of having met the requirements of section (5) of this rule and determination that the applicant is a licensee in good standing. To be in good standing the licensee's dental license(s) must be current and not under restriction or discipline in any state. The requirements of this section and the on-site evaluation must be completed within one (1) year of the date of submission of the application form.

(8) The board shall issue a deep sedation/general anesthesia site certificate upon receipt of a completed application form provided by the board, payment of the appropriate fee, and proof of having met the requirements of section (6) of this rule. The requirements of this section and the on-site evaluation for each site to be authorized must be completed within one (1) year of the date of submission of the application form.

(9) The board may authorize a dentist initially applying for a deep sedation/general anesthesia permit to administer deep sedation/general anesthesia pending an on-site evaluation according to subsection (6)(C) of this rule providing all other requirements outlined in sections (5) and (7) have been met. Such authorization shall be in writing and in effect for a period not to exceed ninety (90) days.

(10) When the primary administrator of anesthesia at a dental office is not a dentist with a valid deep sedation/general anesthesia permit, the board may authorize the dentist initially applying for a deep sedation/general anesthesia site certificate to allow the primary administrator to administer deep sedation/general anesthesia pending an on-site evaluation according to subsection (6)(C) of this rule providing all other requirements outlined in sections (6) and (8) have been met. Such authorization shall be in writing and in effect for a period not to exceed ninety (90) days.

(11) Subsequent to an on-site evaluation as outlined in subsection (6)(C) of this rule, the board, at its discretion, may issue a temporary authorization to administer deep sedation/general anesthesia to any dental office, providing all other provisions of this rule have been met. Such authorization shall be in writing and in effect for a period not to exceed ninety (90) days. A reevaluation may be undertaken prior to the issuance of a site certificate. The fee for the reevaluation shall be the same as the initial evaluation.

(12) To renew a deep sedation/general anesthesia permit a dentist shall, at least ninety (90) days prior to the expiration of the current permit:

(A) Submit a completed renewal application form provided by the board;

(B) Submit the renewal fee specified in 4 CSR 110-2.170 payable to the Missouri Dental Board;

(C) Document completion during the past five (5) years of

1. An Advanced Cardiac Life Support (ACLS) course; or—

2. A minimum of fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthesia complications, or patient management while under sedation.

3. Additional hours, not to exceed five (5), acquired beyond the required number may be carried forward into the renewal cycle.

(D) Successfully complete an on-site evaluation as defined in subsection (6)(C) of this rule.

(13) To renew a site certificate for deep sedation/general anesthesia the dentist-in-charge shall, at least ninety (90) days prior to the expiration of the current site certificate:

(A) Submit a completed renewal application form provided by the board;

(B) Submit the renewal fee specified in 4 CSR 110-2.170 payable to the Missouri Dental Board;

(C) Attest that the primary administrator of deep sedation/general anesthesia is a qualified sedation provider as set forth in 4 CSR 110-4.010(1)(S);

(D) Document that anesthesia team members, including the operating dentist, possess and maintain current certification in CPR or BLS; and

(E) Successfully complete an on-site evaluation as defined in subsection (6)(C) of this rule.

(14) A dentist holding a permit for authorization for the administration of deep sedation/general anesthesia under the provisions of this rule may administer enteral and/or parenteral conscious sedation without a permit for enteral and/or parenteral conscious sedation as required under 4 CSR 110-4.020.

(15) At any time, the board may inspect sites where deep sedation/general anesthesia is administered in order to verify compliance with the minimum requirements of this rule.

(16) If at any time the board learns that a dentist who holds a deep sedation/general anesthesia permit, or a deep sedation/general anesthesia site certificate, has failed to meet the minimum qualifications set out in this rule, the board may pursue disciplinary action in accordance with section 332.321, RSMo.

(17) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction.

**AUTHORITY:** sections 332.031, RSMo 2000 and 332.071 (SB 1122) and 332.361 (HB 1422) amended 2004. Original rule filed Sept. 15, 2004.

**PUBLIC COST:** This proposed rule will cost state agencies or political subdivisions an estimated eight thousand five hundred eighty-three dollars and eleven cents (\$8,583.11) in FY06; seven thousand forty nine dollars and ninety-two cents (\$7,049.92) in FY07; six thousand seven hundred five dollars and ninety-one cents (\$6,705.91) in FY08; eight thousand five hundred seventy-four dollars and sixty-four cents (\$8,574.64) in FY09; two thousand five hundred ninety-four dollars and seventy-three cents (\$2,594.73) in FY10; ten thousand six hundred eleven dollars and one cent (\$10,611.01) in FY11; nine thousand four hundred seventy dollars and seventy-six cents (\$9,470.76) in FY12; nine thousand one hundred twenty-six dollars



and seventy-five cents (\$9,126.75) in FY13; ten thousand nine hundred ninety-five dollars and forty-eight cents (\$10,995.48) in FY14; five thousand fifteen dollars and fifty-seven cents (\$5,015.57) in FY15; and thirteen thousand three hundred eighteen dollars and fifty-nine cents (\$13,318.59) in FY16. Because the board issues permits and certificates on a five (5)-year cycle, a continuous annual growth rate will occur based on the assumption of issuing twelve (12) permits and twenty (20) certificates for the life of the rule. It is anticipated that the cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**PRIVATE COST:** This proposed rule will cost private entities an estimated eleven thousand one hundred seven dollars and forty-six cents (\$11,107.46) in FY06; nine thousand three hundred sixty-eight dollars and sixty-seven cents (\$9,368.67) in FY07; nine thousand sixty dollars and six cents (\$9,060.06) in FY08; twelve thousand eight dollars and twenty-nine cents (\$12,008.29) in FY09; three thousand five hundred fifty-five dollars and eight cents (\$3,555.08) in FY10; thirteen thousand one hundred eighty-eight dollars and ten cents (\$13,188.10) in FY11; twelve thousand four hundred seventy-three dollars and thirty cents (\$12,473.30) in FY12; twelve thousand one hundred seventy-two dollars and nineteen cents (\$12,172.19) in FY13; fifteen thousand ninety-five dollars and thirteen cents (\$15,095.13) in FY14; six thousand seven hundred sixty-four dollars and forty-two cents (\$6,764.42) in FY15; and sixteen thousand three hundred ninety-nine dollars and ninety-four cents (\$16,399.94) in FY16. Because the board issues permits and certificates on a five (5)-year cycle, a continuous annual growth rate will occur based on the assumption of issuing twelve (12) permits and twenty (20) certificates for the life of the rule. It is anticipated that the cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at dental@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

## PUBLIC ENTITY FISCAL NOTE

## I. RULE NUMBER

Title 4 -Department of Economic Development

Division 110 - Missouri Dental Board

Chapter 4 - Sedation

Proposed Amendment - 4 CSR 110-4.040 Deep Sedation/General Anesthesia

Prepared September 9, 2004 by the Division of Professional Registration

## II. SUMMARY OF FISCAL IMPACT TO THE MISSOURI DENTAL BOARD

FISCAL YEAR	PROCESS	NUMBER OF APPLICATIONS	ESTIMATED COST OF COMPLIANCE
FY06	Renewal - Current Individual General Anesthesia Permit - \$10.62	25	\$265.50
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	71	\$8,141.57
Estimated FY06 Cost			\$8,583.11
FY07	Renewal - Current Individual General Anesthesia Permit - \$10.62	21	\$223.02
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	58	\$6,650.86
Estimated FY07 Cost			\$7,049.92
FY08	Renewal - Current Individual General Anesthesia Permit - \$10.62	21	\$223.02
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	55	\$6,306.85
Estimated FY08 Cost			\$6,705.91
FY09	Renewal - Current Individual General Anesthesia Permit - \$10.62	35	\$371.70
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	70	\$8,026.90
Estimated FY09 Cost			\$8,574.64
FY10	Renewal - Current Individual General Anesthesia Permit - \$10.62	1	\$10.62
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	21	\$2,408.07
Estimated FY10 Cost			\$2,594.73
FY11	Renewal - Current Individual General Anesthesia Permit - \$10.62	27	\$286.74
	Renewal - Current Site Certificates - \$114.67	71	\$8,141.57
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40
Estimated FY11 Cost*			\$10,611.01
FY12	Renewal - Current Individual General Anesthesia Permit - \$10.62	33	\$350.46
	Renewal - Current Site Certificates - \$114.67	58	\$6,650.86
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40
Estimated FY12 Cost*			\$9,470.76

FY13	Renewal - Current Individual General Anesthesia Permit - \$10.62	33	\$350.46
	Renewal - Current Site Certificates - \$114.67	55	\$6,306.85
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40

Estimated FY13 Cost\* \$9,126.75

FY14	Renewal - Current Individual General Anesthesia Permit - \$10.62	47	\$499.14
	Renewal - Current Site Certificates - \$114.67	70	\$8,026.90
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40

Estimated FY14 Cost\* \$10,995.48

FY15	Renewal - Current Individual General Anesthesia Permit - \$10.62	13	\$138.06
	Renewal - Current Site Certificates - \$114.67	21	\$2,408.07
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40

Estimated FY15 Cost\* \$5,015.57

FY16	Renewal - Current Individual General Anesthesia Permit - \$10.62	39	\$414.18
	Renewal - Current Site Certificates - \$114.67	91	\$10,434.97
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40

Estimated FY16 Cost\* \$13,318.59

### III. WORKSHEET

See Table Above.

### IV. ASSUMPTIONS

1. The number of individuals by class are based on actual figures from FY02, FY03 and F04 and projected figures in FY05-FY16.

Fiscal Year	Individual Permits to be Renewed	Site Certificates to be Renewed	Individual Permits Issued	Site Certificate Issued
FY06	25	0	12	71
FY07	21	0	12	58
FY08	21	0	12	55
FY09	35	0	12	70
FY10	1	0	12	21
FY11	27	71	12	20
FY12	33	58	12	20
FY13	33	55	12	20
FY14	47	70	12	20
FY15	13	21	12	20
FY16	39	91	12	20

Currently the board issues a permit for a specific dentist to administer deep sedation/general anesthesia at a specific dental office that has been certified by the board. Under the new rule, a dentist who has received specialized education and training will receive an individual permit to administer deep sedation/general anesthesia at any site that holds a site certificate. The table above describes the number of current permits and certificates to be renewed by the board during a specific fiscal year and estimates in the number of permits and certificates to be issued through FY015. Furthermore, based on FY02, FY03 and FY04 actuals the board anticipates issuing 12 permits and 20 certificates annually for the life of the rule.

## 2. CALCULATION OF EXPENSE AND EQUIPMENT AND PERSONAL SERVICE COSTS:

Salaries for the Executive Director, Executive I and Licensure Technician II are shared with another board. The .05 Licensure Technician II position is supported entirely by the Missouri State Dental Board. The figures below represent the personal service costs supported by the Missouri Dental Board.

Employee's salaries were calculated using their annual salary multiplied by 40.47% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	ANNUAL SALARY WITH FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME	COST PER APPLICATION
Executive I	\$28,112.40	\$39,489.49	\$18.99	\$0.32	5	\$1.58
Licensure Technician II	\$19,779.00	\$27,783.56	\$13.36	\$0.22	15	\$3.34
Licensure Technician II	\$24,111.00	\$33,868.72	\$16.28	\$0.27	2.5	\$0.68
Office Support Assistant	\$19,779.00	\$27,783.56	\$13.36	\$0.22	5	\$1.11
Total Personal Service Cost for Board Staff Per Application/Renewal						\$8.92

It is estimated that the following staff time will be devoted on each initial application and/or renewal for the following duties:

Executive Director - Reviews problem permit applications, brings information to the board to be discussed at next meeting, answers technical questions, prepares technical correspondence, prepares rule language, tracks and testifies on legislation relating to General Anesthesia and Conscious Sedation, discusses policies and procedures with Board Members and staff. Estimated time per initial application and/or renewal - 5 minutes

Executive I - Answers technical questions regarding permits and assist Licensing Tech II with the processing and renewal of the permits, assist in the preparation of rules. Estimated time per initial application and/or renewal - 5 minutes

Licensing Tech II - Receives and processes request for permit application packets, processes applications and accompanying documentation, arranges on site visits, monitors current permit holders for renewal dates, prepares and sends renewal applications, receives renewal applications and accompanying documentation, prepares documents for site evaluator. If evaluator approves, processes the renewal or prepares correspondence to applicant identifying deficiencies and/or arranges an on-site evaluation. Estimated time per initial application and/or renewal - 15 minutes

Licensing Tech II - Receives money, reconciles and deposits all fees. Processes per diem requests received from consultants conducting site inspections. Estimated time per initial application and/or renewal - 2.5 minutes

Office Support Assistant (5 minutes) - Opens mail, records money, sets up preliminary file in the division licensing system. Estimated time per initial application and/or renewal - 5 minutes

Board Consultants - Licensees approved by the board to conduct site inspections and receive \$50.00 per day per diem for those services. A team of 2 consultants evaluate the dental office to confirm the adequacy of the facility and competency of the personnel.

**Expense and Equipment and Personal Service Dollars for Initial Applications**

Application Printing	\$0.25
Evaluation Form Printing	\$0.19
Practice Act Printing	\$1.93
Letterhead Printing	\$0.15
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$2.21
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
<b>Total Expense and Equipment Cost:</b>	<b>\$5.75</b>

**Expense and Equipment and Personal Service Dollars for Renewal of Permits/Certificates**

Application Printing	\$0.15
Evaluation Form Printing	\$0.19
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$0.34
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
<b>Total Expense and Equipment Cost:</b>	<b>\$1.70</b>



Based on the above figures the following estimates represent the cost of each application/renewal process:

- Initial Deep Sedation/General Anesthesia Individual Permits:		
Expense and Equipment		\$5.75
Personal Services		\$8.92
<b>Total Cost</b>		<b>\$14.67</b>
- Initial Site Certificate Application Costs:		
Expense and Equipment		\$5.75
Personal Services		\$108.92
<b>Total Cost</b>		<b>\$114.67</b>
- Renewal of Deep Sedation/General Anesthesia Individual Permit:		
Expense and Equipment		\$1.70
Personal Services		\$8.92
<b>Total Cost</b>		<b>\$10.62</b>
- Renewal of Site Certificate:		
Expense and Equipment		\$1.70
Personal Services		\$108.92
<b>Total Cost</b>		<b>\$110.62</b>

4. \*Because the board issues permits and certificates on a five (5) year cycle, a continuous growth rate will occur based on the assumption of issuing 12 permits and 20 certificates annually.
5. The figures for FY06-10 are based on the current number of permits issued by the board. The estimated growth rate is based merely on data gathered by the board for this fiscal note and is merely an estimate of future activity.
6. The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

**PRIVATE ENTITY FISCAL NOTE****I. RULE NUMBER****Title 4 -Department of Economic Development****Division 110 - Missouri Dental Board****Chapter 4 - Sedation****Proposed Amendment - 4 CSR 110-4.040 Deep Sedation/General Anesthesia**

Prepared September 9, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Fiscal Year	Classification by types of entities likely to be affected	Estimated number of entities affected	Estimated Cost of Compliance
FY06	Renewal - Deep Sedation/General Anesthesia Permit - \$100	25	\$2,500.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	71	\$7,100.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	83	\$207.50
	Postage (Applications for and Renewal of Permits and Certificates)	108	\$39.96

Estimated FY06 Cost      \$11,107.46

FY07	Renewal - Deep Sedation/General Anesthesia Permit - \$100	21	\$2,100.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	58	\$5,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	70	\$175.00
	Postage (Applications for and Renewal of Permits and Certificates)	91	\$33.67

Estimated FY07 Cost      \$9,368.67

FY08	Renewal - Parenteral Conscious Sedation Permit - \$100	21	\$2,100.00
	Initial Conscious Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	55	\$5,500.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	67	\$167.50
	Postage (Applications for and Renewal of Permits and Certificates)	88	\$32.56

Estimated FY08 Cost      \$9,060.06

FY09	Renewal - Deep Sedation/General Anesthesia Permit - \$100	35	\$3,500.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	70	\$7,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	82	\$205.00
	Postage (Applications for and Renewal of Permits and Certificates)	117	\$43.29

Estimated FY09 Cost \$12,008.29

FY10	Renewal - Deep Sedation/General Anesthesia Permit - \$100	1	\$100.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	21	\$2,100.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	33	\$82.50
	Postage (Applications for and Renewal of Permits and Certificates)	34	\$12.58

Estimated FY10 Cost \$3,555.08

FY11	Renewal - Deep Sedation/General Anesthesia Permit - \$100	27	\$2,700.00
	Renewal - Site Certificates - \$100	71	\$7,100.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	130	\$48.10

Estimated FY11 Cost \$13,188.10

FY12	Renewal - Deep Sedation/General Anesthesia Permit - \$100	33	\$3,300.00
	Renewal - Site Certificates - \$100	58	\$5,800.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	90	\$33.30

Estimated FY12 Cost \$12,473.30

FY13	Renewal - Deep Sedation/General Anesthesia Permit - \$100	33	\$3,300.00
	Renewal - Site Certificates - \$100	55	\$5,500.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	87	\$32.19

Estimated FY13 Cost \$12,172.19

FY14	Renewal - Deep Sedation/General Anesthesia Permit - \$100	47	\$4,700.00
	Renewal - Site Certificates - \$100	70	\$7,000.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	149	\$55.13

Estimated FY14 Cost \$15,095.13

FY15	Renewal - Deep Sedation/General Anesthesia Permit - \$100	13	\$1,300.00
	Renewal - Site Certificates - \$100	21	\$2,100.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	66	\$24.42

Estimated FY15 Cost \$6,764.42

FY16	Renewal - Deep Sedation/General Anesthesia Permit - \$100	39	\$3,900.00
	Renewal - Site Certificates - \$100	91	\$9,100.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	162	\$59.94

Estimated FY16 Cost \$16,399.94

**III. WORKSHEET**

See Table Above.



#### IV. ASSUMPTIONS

1. The number of individuals by class are based on actual figures from FY02, FY03 and F04 and projected figures in FY05-FY16.

Fiscal Year	Individual Permits to be Renewed	Site Certificates to be Renewed	Individual Permits Issued	Site Certificate Issued
FY06	25	0	12	71
FY07	21	0	12	58
FY08	21	0	12	55
FY09	35	0	12	70
FY10	1	0	12	21
FY11	27	71	12	20
FY12	33	58	12	20
FY13	33	55	12	20
FY14	47	70	12	20
FY15	13	21	12	20
FY16	39	91	12	20

1. Pursuant to 4 CSR 110-2.181, the board currently issues a permit for a specific dentist to administer parenteral conscious sedation at a specific dental office that has been certified by the board. For those licensees holding a parenteral conscious sedation permit and who also meet the requirements 4 CSR 110-4.020, they will now be issued a conscious sedation permit. Under the new rule, the permit and certificate are issued separately allowing the dentist to administer conscious sedation at any site that has been certified by the board.

The conscious sedation permits and certificates will be issued on a 5 year cycle. The board expects by FY11, all parenteral conscious sedation permits will have expired and those individuals will be issued a conscious sedation permit and certificate pursuant to 4 CSR 110-4.020. The table above shows the number of permits and certificates issued and renewed during the fiscal years of FY06-FY16. For fiscal years that follow FY16 and for the purpose of this fiscal note, the board is assuming after the first year of implementation, 24 permits and 28 certificates will be issued annually.

2. The figures for FY06-10 are based on the current number of parenteral conscious sedation permits issued by the board. The estimated rate for the new conscious sedation permits and site certificates is based merely on data gathered by the board for this fiscal note and is merely an estimate of future activity.
4. The total annual will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 332, RSMo. Pursuant to Section 332.031, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 332, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 332, RSMo.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 120—State Board of Embalmers and Funeral  
Directors  
Chapter 2—General Rules  
PROPOSED AMENDMENT**

**4 CSR 120-2.060 Funeral Directing.** The director is amending section (21).

*PURPOSE: This amendment clarifies language in section (21) referring to a deceased and/or disabled Missouri licensed funeral director.*

(21) No temporary Missouri funeral director license authorized under section 333.041.7, RSMo will be issued until the board has been advised as to the location of the Missouri licensed funeral establishment at which the temporary funeral director's license will be used. The holder of the temporary license shall be authorized to only work at the Missouri licensed funeral establishment(s) where the deceased **and/or disabled Missouri licensed funeral director** was authorized to work. Violation of this rule will be deemed unauthorized practice of funeral directing.

*AUTHORITY: sections 333.041 and 333.042, RSMo Supp. 2003 and 333.091, 333.111 and 333.121, RSMo 2000. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 15, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via e-mail to: embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 267—Office of Tattooing, Body Piercing and  
Branding  
Chapter 4—Temporary Establishments**

**PROPOSED RULE**

**4 CSR 267-4.020 Temporary Practitioner License**

*PURPOSE: This rule outlines the requirements for a temporary practitioner's license in the event of a state or national convention being held in the state of Missouri.*

(1) The director of the Division of Professional Registration shall issue a temporary license to practice tattooing, body piercing and/or branding under the following requirements:

(A) The applicant for temporary licensure is entering the state of Missouri for the sole purpose of participating in a state or national

convention wherein the applicant will be practicing the profession of tattooing, body piercing and/or branding;

(B) The applicant files a completed application with the division at or prior to the official start of the portion of the convention wherein the practice of tattooing, body piercing and/or branding takes place and tenders a fee of fifty dollars (\$50); and

(C) The applicant is otherwise qualified for licensure pursuant to sections 324.520 through 324.526, RSMo, and the rules and regulations promulgated thereunder.

(2) A temporary license to practice tattooing, body piercing and/or branding issued pursuant to this rule shall be valid for a period not to exceed fourteen (14) days and shall not be renewable.

(3) Out-of-state applicants receiving a temporary license pursuant to this rule shall agree to designate the division as its agent for the purpose of service of process in the event such person is named in a lawsuit pertaining to his or her temporary licensure in the state of Missouri.

*AUTHORITY: section 324.526, as established in SB 1122 (2004) and 324.522, RSMo Supp. 2003. Emergency rule filed April 15, 2003, effective April 25, 2003, expired Oct. 24, 2003. Original rule filed Sept. 10, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities an estimated five thousand five hundred fifty-one dollars and thirty-five cents (\$5,551.35) annually for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of Tattooing, Body Piercing and Branding, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489 or via e-mail to tattoo@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Private Entity Fiscal Note**

**I. Rule Number**

**Title 4 - Department of Economic Development**

**Division 267 - Office of Tattooing, Body Piercing and Branding**

**Chapter 4 - Temporary Establishments**

**Type of Rulemaking - Proposed Rule**

**Rule Number and Name - 4 CSR 267-4.020 Temporary Practitioner License**

**Prepared September 10, 2004 by the Division of Professional Registration**

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
105	Applicants (\$50 temporary practitioner	\$5,250.00
105	Applicants (\$2.50 notary)	\$262.50
105	Applicants (\$ .37 postage)	\$38.85
<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>		<b>\$5,551.35</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The estimates listed above are based on the number of temporary practitioner
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the

NOTE: The board is statutorily obligated to enforce and administer the provisions of section 324.524, RSMo. Pursuant to Section 324.524, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 324.524, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 324.524, RSMo.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 31—Reimbursement for Services**

**PROPOSED RULE**

**9 CSR 10-31.014 Waiver of Standard Means Test for Children in Need of Mental Health Services**

*PURPOSE: This rule implements a revision to section 630.210, RSMo requiring the department to promulgate a rule waiving the Standard Means Test for a child in need of mental health services.*

**(1) Definitions.**

(A) The terms defined in 9 CSR 10-31.011 Standard Means Test are incorporated by reference as though set out in this rule.

(B) A "child in need of mental health services," as used in this rule, is any child who qualifies to receive services from the Department of Mental Health under Chapters 630, 631, 632 or 633, RSMo.

**(2) Request for Waiver.** At the time of initial application of the Standard Means Test (SMT) for a child in need of mental health services, and at the time of any subsequent reapplication, the provider shall inform the financially responsible person that the SMT may be waived.

(A) The provider shall make available to the financially responsible person information on how to submit a request for SMT waiver.

(B) The financially responsible person shall submit the request in writing to the department director, with a copy to the provider.

(C) The provider shall not charge the monthly rate as determined by the provider's application of the SMT to the financially responsible person for services provided to the child during the time the request is under review.

(D) A waiver may be approved, or approved with conditions, for up to one (1) year. It is the responsibility of the financially responsible person to notify the provider of any significant change in financial status. A waiver may be reevaluated at the initiative of the department director due to any significant change in financial status.

**(3) Review of Request for Waiver.** Upon receipt of a request for SMT waiver the department director shall designate an individual or individuals to review the request. The designee or designees shall approve, approve with conditions, or deny the request within seven (7) working days of receipt of the written request. The designee or designees shall provide notice of the decision to the requestor by certified mail with copy to the provider.

**(4) Consideration of Request.** In making the decision to approve, approve with conditions, or deny the request, the designee or designees must consider the following, as presented by the requestor:

(A) The recommendation of the local care team, or other designated local or regional children's mental health authority that waiving the SMT will contribute to the therapeutic needs of the child by allowing the child to remain in the custody of the parent or custodian;

(B) History of the child being in state custody due exclusively to the need for mental health services where no substantiated reports of abuse or neglect exist;

(C) Statement from the financially responsible person that their primary motivation for requesting the waiver is to avoid loss of custody because they are unable to pay the monthly amount as determined by application of the Standard Means Test;

(D) Past efforts of the financially responsible person to obtain needed medical care, and expenses incurred by the financially responsible person for the treatment of the mental health condition or for the physical health of the child necessitated by the onset of the

mental health condition;

(E) The parent or custodian's history of insurance benefits expended for physical and mental health treatment of the child and their current attempts to obtain commercial or government-sponsored insurance coverage; and

(F) The parent or custodian's overall wherewithal to pay for the child's mental health treatment needs at the time of requesting the waiver, including gross income, medical expenses, assets, liabilities, and financial responsibility for other dependents in the home.

**(5) Denial of Request.** A request for waiver shall be denied when the request for waiver—

(A) Is not submitted in writing;

(B) Does not raise factual issues sufficient to show that inappropriate transfer of custody to the Children's Division is likely to occur absent the waiver; or

(C) Does not present persuasive, factual evidence that the financially responsible person cannot afford to pay the monthly amount required by the application of the Standard Means Test.

**(6) Appeal of Denial.** Within seven (7) working days of receipt of notice of approval with conditions or denial of a request, the financially responsible person may appeal the approval with conditions or denial in writing to the department director, with copy to the provider.

**(7) Review of Appeal.** Within seven (7) working days of receipt of the written appeal, and upon completion of review, the department director shall issue a decision which may alter the approval with conditions or denial. The department director shall provide notice of the decision by certified mail to the financially responsible person with copy to the provider. The decision of the department director shall be the final decision of the department.

*AUTHORITY: sections 630.050, RSMo 2000 and 630.210, RSMo Supp. 2004. Emergency rule filed Sept. 2, 2004, effective Sept. 15, 2004, expires March 13, 2005. Original rule filed Sept. 2, 2004.*

*PUBLIC COST: The projected cost of this proposed rule is one hundred seventy-eight thousand eight hundred twenty-eight dollars (\$178,828) during the first year, and fifty-three thousand seven hundred dollars (\$53,700) in the second year and subsequent years with inflationary increases of 2.5% for each year over the twenty (20)-year life of the rule. Please see fiscal note.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by writing to Randy Hodill, Reimbursement Administrator, Office of Administration, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*



**Fiscal Note  
Public Entity Cost**

**I. RULE NUMBER.** (All of the information in Part I comes from the header of the rule.)

Title: 9 – Department of Mental Health

Division: 10 Director

Chapter: 31 – Reimbursement for Services

Type of Rulemaking: New

Rule Number and Name: 9 CSR 10-31.014 Waiver of Standard Means Test for Children in Need of Mental Health Services

**II. SUMMARY OF FISCAL IMPACT** (Present a summary of fiscal impact. Use a separate row for each public agency or political subdivision affected.)

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Mental Health	\$178,828 first year
Department of Mental Health	\$53,700 per year for subsequent years

**III. WORKSHEET** (Present more detailed fiscal information.)

The projected cost of implementation will be \$178,828 during the first year, and \$53,700 in the second year and subsequent years with inflationary increases of 2.5 % for each year over the twenty year life of the rule.

	Clients served	Monthly income at 300 % FPL	Fam. size	SMT amount per month	No. of mos. of svc.	Amt billed	Percent collected	Potential revenue loss
1 <sup>st</sup> year	333	\$3,918	3	\$358	6	\$1,008,000	25%	\$178,828
2 <sup>nd</sup> year	100	\$3,918	3	\$358	6	\$1,008,000	25%	\$53,700
Rate								2.5%
2 <sup>nd</sup> yr. with inflation								\$ 55,043

**IV. ASSUMPTIONS AND METHODOLOGY.** (Present assumptions, references and methods of acquiring information that underlie the conclusions in the fiscal note. Examples of information that might be included here are the sources of information presented in the fiscal note, why those sources were chosen and eventualities that might cause the fiscal impact to be different from your estimate.)

The department determines how much each client pays for services in accordance with the Standard Means Test (SMT). Families with incomes below 300 % of the federal poverty level (FPL) are eligible for Medicaid and are not subject to the SMT. Senate Bill No. 1003 made changes in section 630.210 RSMo permitting a waiver of the SMT for children in need of mental health services to avoid inappropriate custody transfers to the children's division. Families with incomes above 300 % of the FPL are not eligible for Medicaid and would have been subject to the SMT prior to the passage of Senate Bill No. 1003. Consequently, the sole fiscal impact of this rule is loss of private pay revenue generated from the SMT for the clients who receive waivers.

We estimate there could be as many as 500 clients currently placed voluntarily in the care of the Children's Division exclusively for mental health needs. This is the total number affected by this legislation who could apply for a waiver in the first year. We further estimate that no more than two-thirds of this number will apply for waivers and be approved in the first year. In subsequent years we estimate that the number of waivers granted will not exceed 100 clients. The income of a three member household at 300 % FPL is \$3,918 per month. The SMT charge would be \$358 per month. The fiscal impact assumes billing for six months of mental health services with a collection rate of 25%.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**PROPOSED AMENDMENT**

**12 CSR 10-23.335 Issuance of Title to a Surviving Spouse or Unmarried Minor Children of a Decedent.** The director proposes to amend sections (1) and (2).

*PURPOSE:* This proposed amendment clarifies both the requirements and the units that qualify for titling pursuant to section 474.250, RSMo.

(1) When a decedent has not disposed of an automobile or other passenger motor vehicle by will, the surviving spouse, or in the event there is no surviving spouse, the unmarried minor children may equally take title to one (1) automobile or other passenger motor vehicle **including a pickup truck** without the issuance of a probate court order. The surviving spouse or unmarried minor children shall submit the following documents to the Department of Revenue in order to obtain a certificate of title:

(E) Proof that the applicant was legally married to the decedent or **is an unmarried minor child of the decedent**, if [the application is being submitted by the surviving spouse] **applicable**; and

(2) For the purposes of obtaining a certificate of ownership, one (1) automobile or other passenger motor vehicle, as provided in section 474.250, RSMo, shall include any motor vehicle which is titled in the name of the decedent or assigned to the decedent. The ownership of [trailers] **non-passenger vehicles such as recreational vehicles, all-terrain vehicles, trailers, commercial trucks (trucks licensed for over eighteen thousand (18,000) pounds), buses and boats and outboard motors** shall not be transferred by the Department of Revenue to a surviving spouse or unmarried minor children without presenting an appropriate court order.

*AUTHORITY:* section 474.250, RSMo [1986] 2000. Original rule filed July 25, 1986, effective Nov. 28, 1986. Amended: Filed July 17, 1989, effective Oct. 27, 1989. Amended: Filed Sept. 16, 2004.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**PROPOSED RESCISSION**

**12 CSR 10-23.375 Fire Department License Plates.** This rule established procedures for issuance of fire department license plates to Missouri's fire marshal and three (3) members of the fire mar-

shal's staff which s/he shall designate.

*PURPOSE:* This rule is being rescinded because it is no longer applicable.

*AUTHORITY:* sections 301.144.2 and 301.444, RSMo 1986. Original rule filed Jan. 5, 1987, effective April 11, 1987. Rescinded: Filed Sept. 16, 2004.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**PROPOSED RULE**

**12 CSR 10-23.465 Issuance of Biennial Salvage Business Licenses**

*PURPOSE:* This rule provides for issuing biennial salvage business licenses on a staggered basis to equalize the Department of Revenue's workload and for the corresponding fees that are required.

(1) Salvage business licenses expire June 30 of the designated expiration year. The renewal period begins April 1 in the year of their expiration.

(A) New applicants for salvage business licensure processed on or after August 28, 2004, will be issued a two (2)-year license expiring June 30 of the appropriate year. The cost for licensure shall be one hundred thirty dollars (\$130) for each type of business activity indicated on the application, except that only one (1) one hundred thirty dollar (\$130) fee shall be collected if the applicant applies for licensure as a used parts dealer and a salvage dealer or dismantler. If the licensure period is for less than a two (2)-year period, the licensure fee shall be prorated for each type of business activity on a quarterly basis based on application receipt date as follows:

1. July 1 to September 30—one hundred thirty dollars (\$130)
2. October 1 to December 31—one hundred thirteen dollars and seventy-five cents (\$113.75)
3. January 1 to March 31—ninety-seven dollars and fifty cents (\$97.50)
4. April 1 to June 30—eighty-one dollars and twenty-five cents (\$81.25)

(B) Late renewal applicants who submitted their application for a salvage business license before August 28, 2004, but who are not approved until on or after August 28, 2004, will receive a one (1)-year license expiring June 30, 2005, at a cost of sixty-five dollars (\$65) for each type of business activity conducted.

(C) Late renewal applicants who submit their application for a salvage business license on or after August 28, 2004, have the option of receiving a one (1)-year or two (2)-year license. These applicants

must obtain a certification from authorized law enforcement as required by section 301.219, RSMo.

(D) Renewal applicants for salvage business licensure who renew during the renewal cycle beginning April 1, 2005, and who have an even-numbered license number, will be issued a one (1)-year license expiring June 30, 2006, at a cost of sixty-five dollars (\$65) for each business activity conducted. During the renewal cycle beginning April 1, 2006, these renewal applicants will be issued a two (2)-year license expiring June 30, 2008.

(E) Renewal applicants for salvage business licensure who renew during the renewal cycle beginning April 1, 2005, and who have an odd-numbered license number, will be issued a two (2)-year license expiring June 30, 2007, at a cost of one hundred thirty dollars (\$130) for each business activity conducted.

(2) Each application for a salvage business license must be accompanied by a five-dollar (\$5) fee for a criminal record check for each owner, partner, or corporate officer listed on the application. The deposited fees are forwarded to the Missouri State Highway Patrol. The patrol shall provide the director with the results of the applicant's criminal record check to assist the director in determining the applicant's qualifications as provided in section 301.221, RSMo.

(3) In the event that owners, partners, or principal officers (if a corporation) are residents of a state other than Missouri or another country, they must obtain a current criminal record check from their state highway patrol or corresponding law enforcement agency and submit that record check with new and renewal applications. The five-dollar (\$5) fee referenced in section (2) of this rule is inapplicable to this circumstance.

*AUTHORITY: sections 301.219, 301.221 and 301.229, RSMo 2000. Original rule filed Sept. 16, 2004.*

*PUBLIC COST: This proposed rule will cost state agencies and political subdivisions three thousand nine hundred eighty-one dollars (\$3,981) the first year and four thousand seven hundred seventy-eight dollars (\$4,778) each year thereafter.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*



**FISCAL NOTE  
PUBLIC COST**

**I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-23.465 Issuance of Biennial Salvage Business Licenses
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Revenue	\$4,778.00 Annually

**III. WORKSHEET**

Decrease in Revenue	\$4,778			
	Highway	Cities	Counties	Total
FY 05	\$2,986	\$597	\$398	\$3,981
FY 06	\$3,583	\$717	\$478	\$4,778
FY 07	\$3,583	\$717	\$478	\$4,778

Decrease in revenue is a result of pro-rating of fees for new licenses.

**IV. Assumptions**

This rule provides for issuing biennial salvage business licenses on a staggered basis to equalize the Department of Revenue's workload and for the corresponding fees that are required.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 26—Dealer Licensure**

**PROPOSED RESCISSION**

**12 CSR 10-26.130 Review of License Denial or Disciplinary Action.** This rule established procedures for review of a license denial or the imposition of discipline.

*PURPOSE:* This rule is being rescinded because it is no longer applicable due to the passage of House Bill 1259, which requires dealer hearings to be conducted by the Administrative Hearing Commission.

*AUTHORITY:* sections 301.553 and 301.562, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Sept. 16, 2004.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 26—Dealer Licensure**

**PROPOSED RESCISSION**

**12 CSR 10-26.140 Hearing Procedures.** This rule outlined the procedure for conducting hearings.

*PURPOSE:* This rule is being rescinded because it is no longer applicable due to the passage of House Bill 1259, which requires dealer hearings to be conducted by the Administrative Hearing Commission.

*AUTHORITY:* section 301.553, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Sept. 16, 2004.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 26—Dealer Licensure**

**PROPOSED RESCISSION**

**12 CSR 10-26.150 Designated Hearing Officer.** This rule established the duties and powers of a hearing officer.

*PURPOSE:* This rule is being rescinded because it is no longer applicable due to the passage of House Bill 1259, which requires dealer hearings to be conducted by the Administrative Hearing Commission.

*AUTHORITY:* section 301.553, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Sept. 16, 2004.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 26—Dealer Licensure**

**PROPOSED RESCISSION**

**12 CSR 10-26.160 Waiver of Hearing.** This rule set forth the requirements which must be met for a waiver of hearing.

*PURPOSE:* This rule is being rescinded because it is no longer applicable due to the passage of House Bill 1259, which requires dealer hearings to be conducted by the Administrative Hearing Commission.

*AUTHORITY:* section 301.553, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Sept. 16, 2004.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 26—Dealer Licensure**

**PROPOSED RESCISSION**

**12 CSR 10-26.170 Prehearing Conferences and Stipulations.** This rule established specific requirements needed to set prehearing conferences.

*PURPOSE: This rule is being rescinded because it is no longer applicable due to the passage of House Bill 1259, which requires dealer hearings to be conducted by the Administrative Hearing Commission.*

*AUTHORITY: section 301.553, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Sept. 16, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 103—Sales/Use Tax—Imposition of Tax**

**PROPOSED RULE**

**12 CSR 10-103.210 Auctioneers and Other Agents Selling Tangible Personal Property**

*PURPOSE: This rule interprets the sales and use tax law as it applies to sales of tangible personal property when an auctioneer or other agent is involved in the sale.*

(1) In general, an auctioneer who does not disclose the principal will be considered the seller of the tangible personal property and will be required to collect and remit sales tax on the gross receipts of the property sold. The principal is liable for collecting and remitting the tax if the auctioneer discloses the principal to the purchasers at the auction. An organization exempt from tax on its sales (see 12 CSR 10-110.955) acting as an agent to sell tangible personal property to raise funds for the exempt organization is not required to collect and remit tax; the principal must collect and remit the tax. All other agents selling tangible personal property, by consignment or otherwise, must collect and remit tax even if the principal is disclosed.

(2) Definition of Terms.

(A) Agent—a person who acts on behalf of a principal.

(B) Auctioneer—an agent licensed as an auctioneer who sells tangible personal property belonging to another at public or private auction and who receives compensation for conducting the sale.

(C) Principal—a person who empowers another to act on his/her behalf.

(3) Basic Application of Tax.

(A) The principal is liable for collecting and remitting the tax if the auctioneer discloses the principal to the purchasers at the auction. An auctioneer may disclose the principal by written or oral communication to the purchasers.

(B) Tangible personal property sold at public or private auction in the course of the partial or complete liquidation of a household, farm or non-business enterprise is not subject to tax. See 12 CSR 10-103.200.

(C) Tangible personal property, except inventory of the seller, sold at public or private auction in the course of a liquidation of a business is not subject to tax. The sale of inventory is subject to tax.

(4) Examples.

(A) An auctioneer conducts a weekly auction in which the auctioneer sells various items obtained from numerous undisclosed principals. The auctioneer must collect and remit sales tax on these sales.

(B) An auctioneer conducts an auction on behalf of a disclosed principal. The principal is responsible for collecting and remitting the sales tax on the sales.

(C) A retired farmer contracts with an auctioneer to sell the assets of the family farm. The receipts from these sales are not subject to tax because the assets are sold in the course of a partial or complete liquidation of a household, farm or non-business enterprise.

(D) A grocery store is going out of business and contracts with an auctioneer to sell the fixtures and inventory of the store. The sales of the cash registers, display counters and refrigeration equipment are not subject to sales tax as a liquidation of a business. The sales of inventory items such as groceries are subject to sales tax.

(E) An antique store sells some goods on consignment from the owners. The store agrees with the owners to split the proceeds of the sale, 60% to the owner and 40% to the store. The store must collect and remit tax on the entire sale price even if it discloses the owners of the consigned goods.

(F) An art gallery sells works by artists for a commission. The gallery must collect and remit tax on the entire sale price even though the artists are disclosed.

(G) A parent teacher organization (PTO) agrees with a candy company to sell candy as a fundraiser for a public elementary school. The PTO buys the candy from the company and has the right to return any unsold candy over the minimum agreed amount. The sale is not subject to tax because the PTO is the seller of the candy and its sales are exempt from tax as sales by a public elementary school.

(H) A parent teacher organization agrees with a wrapping paper company to sell wrapping paper as a fundraiser for a public elementary school. The PTO takes orders for the wrapping paper and forwards the orders to the company. The PTO never takes title to the wrapping paper—it merely takes the orders and delivers the paper. The company must collect and remit tax because the company is the seller of the wrapping paper.

*AUTHORITY: section 144.270, RSMo 2000. Original rule filed Sept. 9, 2004.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Revenue two thousand eight hundred fifty-four dollars (\$2,854) with that cost recurring annually over the life of the rule.*

*PRIVATE COST: This proposed rule is estimated to cost private entities thirty-two thousand two hundred fifty dollars (\$32,250) in the aggregate of the estimated duration of the rule.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC COST****I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-103.210 Auctioneers and Other Agents Selling Tangible Personal Property
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Revenue	\$2,854

**III. WORKSHEET**

It costs the Department of Revenue \$2.25 to process a typical sales tax return. Based on an estimated 1,075 returns filed by auctioneers in a given year, the costs to process are  $1,075 \times \$2.25 = \$2,148.75$ . The Department of Revenue's costs to print and mail returns to auctioneers are \$.405 per return. The calculation for these costs are  $1,075 \times \$0.405 = \$435.38$ .

**IV. Assumptions**

The costs assume no postal discounts for mailing are realized.



**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

<b>Rule Number and Name:</b>	12 CSR 10-103.210 Auctioneers and Other State Agents Selling Tangible Personal Property
<b>Type of Rulemaking:</b>	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

<b>Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule</b>	<b>Classification by types of the business entities which would likely be affected:</b>	<b>Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:</b>
244	Auctioneers - \$30 in cost to prepare and file a sales tax return.	\$32,250

**III. WORKSHEET**

The Department of Revenue receives approximately 1,075 returns per year from approximately 244 auctioneers. The estimated cost to prepare and file a return per business is \$30 per filed return. The cost to businesses to comply then is 1,075 X \$30.

**IV. ASSUMPTIONS**

The rule doesn't change existing practice. The department cannot determine the actual costs of preparing and filing a return for each auctioneer. For purposes of this fiscal note, the department assumes that the cost is \$30 and that every auctioneer makes at least one sale per reporting period. The department believes these assumptions are reasonable because this fiscal note was circulated for comment to the Missouri Professional Auctioneers Association and to everyone that subscribes to the department's sales/use tax regulations listserve and we did not receive any comment disputing this fiscal note or its assumptions.

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 40—Family Support Division**  
**Chapter 110—Fees**

**PROPOSED RULE**

**13 CSR 40-110.020 Federal Income Tax Refund Offset Fee**

*PURPOSE:* This rule defines how the Family Support Division will collect a fee from custodians for whom the division submits past-due child and spousal support debts for collection through the federal income tax refund offset program in a IV-D, nonpublic assistance case.

(1) Definitions. For the purposes of this rule, the following definitions are applicable:

(A) Division means the Family Support Division;

(B) Support order means any judicial or administrative order for the support or maintenance of a child and the custodian of a child;

(C) Support means any financial support that is due under a support order;

(D) Custodian means the obligee and/or payee of a support order;

(E) Obligor means a person who owes support under a support order being enforced by the division;

(F) Case means an official record comprised of a custodian and dependent child(ren), associated with a particular obligor;

(G) IV-D, nonpublic assistance case means a case in which the custodian and dependent child(ren) have not received Aid to Families with Dependent Children or Temporary Assistance for Needy Families benefits in Missouri and are not currently receiving Medicaid benefits in Missouri, but are receiving child support enforcement services pursuant to section 454.400, RSMo;

(H) Federal income tax refund offset means a support payment collected through the interception of the obligor's federal income tax refund;

(I) Distribute means the allocation of a support payment to a case.

(2) Federal Income Tax Refund Offset Fee. The division will collect a twenty-five dollars (\$25) fee for submitting past-due child and spousal support debts for collection through the federal income tax refund offset program.

(A) The fee will be assessed only if the division collects past-due support on the case through a federal income tax refund offset.

(B) The fee will be assessed only on IV-D, nonpublic assistance cases to which a federal income tax refund offset distributes.

(C) The fee will be assessed each time a federal income tax intercept distributes to a IV-D, nonpublic assistance case.

(D) The obligor will receive credit against the support order for the entire federal income tax refund offset. The fee will be collected from the custodian.

(E) Prior to disbursement of the federal income tax refund offset payment to the custodian, the fee will be deducted from the amount payable to the custodian.

(F) If the federal income tax refund offset amount payable to the custodian is less than twenty-five dollars (\$25), the fee amount will equal the offset amount payable to the custodian.

*AUTHORITY:* section 454.400.2(5), RSMo. Original rule filed Sept. 10, 2004.

*PUBLIC COST:* This proposed rule is estimated to cost state agencies or political subdivisions twenty thousand four hundred sixty-six dollars (\$20,466) in the aggregate.

*PRIVATE COST:* This proposed rule is estimated to cost private entities two hundred sixteen thousand seven hundred fifty dollars (\$216,750) per year.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Family Support Division, Denise Cross, Director, 615 Howerton Court, PO Box 2320, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**FISCAL NOTE**

**PUBLIC COST**

**I. RULE NUMBER**

Rule Number and Name:	13 CSR 40-110.020 Federal Income Tax Refund Offset Fee
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate		
Family Support Division	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007
Notices mailed to eligible entities	\$20,466	N/A	N/A

**III. WORKSHEET**

Number of Notices	Postage Cost Per Notice	Total Mailing Cost
58,143	\$0.352	\$20,466

**IV. ASSUMPTIONS**

1. Federal income tax refund offset fees are collected at the case level.
2. Based on case data as of 6/30/2004, there are an estimated 58,143 cases that are or will become eligible for the fee.
3. Postage costs associated with mailing advance notices to eligible entities of the agency's intent to charge the fee is \$0.352 per notice for pre-sorted mail.
4. After implementation of the fee, notice to affected entities will be incorporated into existing agency forms/notices at no additional cost.

**FISCAL NOTE****PRIVATE COST****I. RULE NUMBER**

Rule Number and Name:	13 CSR 40-110.020 Federal Income Tax Refund Offset Fee
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
8,670	Custodians	\$216,750

**III. WORKSHEET**

Projected eligible cases per year	Fee per eligible case	Projected annual fee collections
8,670	\$25	\$216,750

**IV. ASSUMPTIONS**

1. Federal income tax refund offset fees are collected at the case level.
2. Estimate in the aggregate is presented as the annual total for all affected custodians. The life of the rule is without end.



**Title 15—ELECTED OFFICIALS**  
**Division 60—Attorney General**  
**Chapter 14—Legal Expense Fund Coverage for**  
**Attorneys Practicing Law Without Compensation**

**PROPOSED RULE**

**15 CSR 60-14.010 Definitions**

*PURPOSE: This rule defines terms used in section 105.711, RSMo, as amended by Senate Bill No. 1247, 92nd General Assembly (2004).*

- (1) "Agency"—an agency of any federal, state, or local government.
- (2) "Agency of any federal, state, or local government"—a governmental agency located in the state of Missouri, existing under and deriving its powers from the federal or state constitution or federal or state law.
- (3) "Center"—a nonprofit community social services center.
- (4) "Licensed attorney"—a member of The Missouri Bar, including a member exempt from the payment of bar dues pursuant to Supreme Court Rule 6.01(d)(1), (2) or (3), but not including an attorney in the reduced enrollment fee category of Supreme Court Rule 6.01(j)(3).
- (5) "Nonprofit community social services center"—a nonprofit corporation, a benevolent corporation or an unincorporated association that provides legal services without charge to or on behalf of poor or indigent Missouri residents, that has applied for tax-exempt status under section 501(c)(3) of the *Internal Revenue Code* and has received a determination letter from the Internal Revenue Service recognizing the organization's tax exempt status.

*AUTHORITY: section 105.711.4, RSMo Supp. 2004. Emergency rule filed Sept. 2, 2004, effective Sept. 12, 2004, expires March 10, 2005. Original rule filed Sept. 2, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Attorney General, Attn. Brett Berri PO Box 899, Jefferson City, MO 65102-0899, by faxing (573) 751-0774 or via e-mail at brett.berri@ago.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 15—ELECTED OFFICIALS**  
**Division 60—Attorney General**  
**Chapter 14—Legal Expense Fund Coverage for**  
**Attorneys Practicing Law Without Compensation**

**PROPOSED RULE**

**15 CSR 60-14.020 Contract Procedures**

*PURPOSE: This rule prescribes contract procedures for purposes of section 105.711, RSMo, as amended by Senate Bill No. 1247, 92nd General Assembly (2004).*

(1) An attorney practices law at or through a nonprofit community social services center or through any agency of any federal, state, or local government if:

(A) The attorney provides to the center or agency in writing his or her name, address, place of employment, if any, daytime telephone number and Missouri Bar number;

(B) The attorney is assigned clients, cases or matters by the center under procedures adopted by the center or agency, not to include clients assigned by court order;

(C) The attorney has no preexisting attorney client relationship with any client under which a fee has been collected or contracted for;

(D) The attorney agrees in writing at the outset of any representation or consultation that no fee will be charged, sought or accepted for representation or consultation regardless of the outcome of the representation or consultation; and

(E) The attorney does not discriminate in providing legal services on the basis of race, sex, religion, national origin or ethnic background.

(2) An attorney practices law without compensation at or through a nonprofit community social services center or through any agency of any federal, state, or local government if:

(A) Neither the attorney nor the center receives, or contracts for the receipt of a fee, donation or contribution of money, goods, services or any other thing of value in any way related to the attorney's legal representation;

(B) The attorney does not receive a salary, hourly wage or any other thing of value from the center or agency;

(C) The attorney does not receive a salary, hourly wage or any other thing of value from any person, firm, corporation, partnership or any other source in any way related to the attorney's practice of law at or through the center or agency; and

(D) No other individual or entity, other than the client and/or his or her heirs, assigns and beneficiaries, receives anything of value in any way related to the attorney's services at or through the center.

*AUTHORITY: section 105.711.4, RSMo Supp. 2004. Emergency rule filed Sept. 2, 2004, effective Sept. 12, 2004, expires March 10, 2005. Original rule filed Sept. 2, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Attorney General, Attn. Brett Berri PO Box 899, Jefferson City, MO 65102-0899, by faxing (573) 751-0774 or via e-mail at brett.berri@ago.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 15—ELECTED OFFICIALS**  
**Division 60—Attorney General**  
**Chapter 14—Legal Expense Fund Coverage for**  
**Attorneys Practicing Law Without Compensation**

**PROPOSED RULE**

**15 CSR 60-14.030 Documentation of Legal Practice**

*PURPOSE: This rule prescribes procedures for documentation of legal practice for purposes of section 105.711, RSMo, as amended by Senate Bill No. 1247, 92nd General Assembly (2004).*

(1) A nonprofit community social services center through which any attorney practices law without compensation shall provide a copy of its federal tax exemption letter or other verification of tax exempt status under section 501(c)(3) of the *Internal Revenue Code* to the Attorney General.

(2) For each attorney who provides legal services without compensation at or through a nonprofit community social services center or through any agency of any federal, state, or local government or through any agency of any federal, state, or local government, the center or agency shall annually during the month of June provide to the Attorney General:

(A) The attorney's name, address, and daytime telephone number;

(B) The attorney's Missouri Bar number or other evidence that the attorney is licensed to practice law in Missouri;

(C) An estimate of the number of hours per year of legal services provided without compensation by the attorney through the center or agency;

(D) A general description of the area of practice engaged in by the attorney.

(3) An attorney practicing law at or through a nonprofit community social services center may maintain records documenting client representation or consultation at the center if, in the attorney's professional judgement, the center has a physical location with record keeping capabilities adequate to preserve the records and to safeguard attorney client confidences. If the center does not have an adequate physical location, the attorney shall maintain such records at his or her place of business, home or other location appropriate for securing client records.

(4) Documentation of coverage shall be maintained by the Attorney General.

*AUTHORITY: section 105.711.4, RSMo Supp. 2004. Emergency rule filed Sept. 2, 2004, effective Sept. 12, 2004, expires March 10, 2005. Original rule filed Sept. 2, 2004.*

*PUBLIC COST: This proposed rule will cost state agencies and political subdivisions five thousand ninety dollars (\$5,090) per year over the life of the rule in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Attorney General, Attn. Brett Berri PO Box 899, Jefferson City, MO 65102-0899, by faxing (573) 751-0774 or via e-mail at [brett.berri@ago.mo.gov](mailto:brett.berri@ago.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC COST**

**I. RULE NUMBER**

Rule Number and Name:	15 CSR 60-14.030 - Documentation of Legal Practice
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Office of the Attorney General	\$5,090 per year over the life of the rule

**III. WORKSHEET**

The Attorney General's Office maintains certain databases and registries (e.g. No-Call, racial profiling, charitable organizations, health spas) and based on the workload in those areas, estimates that a paralegal would spend approximately 250 hours per year maintaining documentation on 1,250 attorneys practicing law without compensation. The salary for a paralegal is  $\$22,500 \times 0.125 = \$2,812.50$ , associated fringe benefits = \$1,164.00, expense and equipment = \$1,114.00.

**IV. ASSUMPTIONS**

The costs stated herein do not include the cost of defending claims against the Legal Expense Fund or the costs to the Legal Expense Fund as a result of successful claims, because this rule neither creates the Fund's liability to pay claims nor the Attorney General's duty to defend claims against it. The rule requires the Office of the Attorney General to file and maintain certain documentation from nonprofit and governmental entities. Although the number of filings is unknown at this time, based upon conversations with various nonprofit and governmental entities, the Attorney General's Office assumes documentation for between 500 and 2,000 attorneys will be filed each year. Certain governmental agencies utilizing volunteer attorneys might incur some de minimus costs in making the required filing with the Attorney General's Office; any such cost is not included in the calculation.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES**

**Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 3—General Sanitation**

**PROPOSED RESCISSION**

**19 CSR 20-3.080 Description of Persons Qualified to Perform Percolation Tests of Soils Morphology Examinations in Determining Soil Properties for On-Site Sewage Disposal Systems.** This rule established a list describing those persons qualified to perform percolation tests or soils morphology examinations in determining soil properties for on-site sewage disposal systems. This listing is authorized and mandated by section 701.040(2), RSMo.

*PURPOSE: This rule is being rescinded because a new rule, 19 CSR 20-3.080, has been developed to establish the criteria for inclusion on the lists describing those persons registered to perform percolation tests and/or soils morphology examinations in determining soil properties for on-site wastewater treatment systems and for inclusion on the registered on-site wastewater treatment system installers list in accordance with sections 701.025 through 701.059, RSMo and 19 CSR 20-3.060.*

*AUTHORITY: section 701.040(2), RSMo 1994. Emergency rule filed April 17, 1995, terminated April 26, 1995. Original rule filed April 17, 1995, effective Dec. 30, 1995. Emergency amendment filed Sept. 2, 2004, effective Sept. 12, 2004, expires March 10, 2005. Rescinded: Filed Sept. 2, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Bryant McNally, Division Director, Missouri Department of Health; Division of Environmental Health and Communicable Disease Prevention; PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearings will be held.*

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES**

**Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 3—General Sanitation**

**PROPOSED RULE**

**19 CSR 20-3.080 Requirements for Percolation Testers or On-Site Soils Evaluators and Registered On-Site Wastewater Treatment System Installers**

*PURPOSE: This rule establishes the criteria for inclusion on the lists of those persons qualified to perform percolation tests and/or soils morphology evaluations in determining soil properties for on-site wastewater treatment systems and for inclusion on the registered on-site wastewater treatment system installers list in accordance with sections 701.025 through 701.059, RSMo.*

(1) The following definitions shall apply to this rule:

(A) Administrative authority—The governing body which may include, but is not limited to, county health departments, planning and zoning commissions, county building departments, county public works department, sewer districts, municipalities and the Missouri Department of Health and Senior Services which has, as authorized by statute, charter or other form of enabling authority, adopted regulations equal to or greater than sections 701.025 through 701.059, RSMo for individual on-site wastewater treatment systems;

(B) Advanced on-site wastewater treatment system (OWTS) installer—A person registered by the department to install advanced OWTS as listed by the department;

(C) Department—The Missouri Department of Health and Senior Services;

(D) Installer—Any person defined in section 701.025, RSMo as an “on-site sewage disposal system contractor”;

(E) On-site soil evaluators (OSE)—Individuals including soil scientists, as defined by section 701.040.1(2), RSMo; licensed engineers, and registered geologists as defined by section 701.040.1(2), RSMo with ten (10) semester hours of soils course work including three (3) semester hours of course work in soil morphology and interpretations; and meeting the requirements of this rule;

(F) On-site wastewater treatment system (OWTS)—Any system defined in section 701.025(8), RSMo as an “on-site sewage disposal system”;

(G) Regular on-site wastewater treatment system (OWTS) installer—A person registered by the department to install regular OWTS as listed by the department; and

(H) Soil morphology evaluation—The method of testing or evaluating absorption qualities of the soil by physical examination of the soils’ color, mottling, texture, structure, topography and hill-slope position.

(2) A person must be registered by the department to conduct any part of a percolation test or soil morphology evaluation in which results are intended for use in the design of an OWTS or to install an OWTS according to the standards set forth in sections 701.025 through 701.059, RSMo and 19 CSR 20-3.060.

(A) Percolation Tests.

1. To obtain registration from the department to conduct a percolation test, a person shall:

A. Successfully complete a training course conducted by or approved by the department. This training course shall include, at a minimum, course work, field work, a written examination and a practical examination; or

B. Submit documentation that he/she meets the definitions of OSE, licensed engineer or registered geologist; and

C. Complete the department’s registration process described in section (3).

(B) Soil morphology evaluations shall be conducted by individuals meeting the definition of an OSE and meeting the requirements of this rule.

1. To obtain registration from the department to perform soils morphology evaluations, a person shall:

A. Provide the following information:

(I) An original transcript from the school or university attended mailed directly from the registrar to the department in Jefferson City;

(II) Course descriptions from the school attended to verify the nature of the course work if requested; and

(III) A copy of current applicable professional registration for licensed engineers or registered geologists indicating the registrant is in good standing;

B. Complete a written and a field test conducted by or approved by the department with a score of seventy percent (70%) or higher on each section; and



C. Complete the department registration process described in section (3).

(C) Installation of On-Site Wastewater Treatment Systems. The installation of any OWTS can only be done by a person registered with the department, with the exception of a property owner meeting the requirements of section 701.055, RSMo. After July 1, 2005, only persons registered as advanced OWTS installers shall install systems listed by the department as advanced OWTS.

1. To obtain registration from the department as a regular OWTS installer, a person shall:

A. Complete a training course conducted by or approved by the department with a score of seventy percent (70%) or higher; and

B. Complete the department registration process described in section (3).

2. To obtain registration from the department as an advanced OWTS installer, a person shall:

A. Possess a regular OWTS installer's registration in good standing;

B. Complete an advanced OWTS installer training course approved by the department with a score of seventy percent (70%) or higher; and

C. Complete the department registration process described in section (3).

### (3) Department Registration Process.

(A) To complete the department registration process, a person shall:

1. Complete an application on a form approved by the department;

2. Pay the registration or registration renewal fee at the time the application is submitted. Payment shall be made in the form of a personal check, certified or cashier's check or money order made payable to the Department of Health and Senior Services. This is a nonrefundable processing fee;

3. Pay a late charge of ten dollars (\$10) in addition to the registration renewal fee if an application is submitted more than fifteen (15) days after the previous registration expires. Registration renewal applications will not be accepted if more than forty-five (45) days after the previous registration expires. Persons submitting registration renewal applications more than forty-five (45) days after expiration of their registration will be required to complete the original registration process, including any department training requirements for original registration; and

4. Each renewal application shall include a list of all continuing education units (CEU) completed for the thirty-six (36)-month period prior to the application. The department shall not grant a renewal of the registration unless the applicant provides documentation of successful completion of at least twenty (20) hours of department-approved CEU, four (4) hours of which shall be provided by the department, within the thirty-six (36)-month period prior to the application.

(B) All individuals certified, listed, or registered with the department before August 28, 2004, will receive a registration during the first year of implementation of this rule, valid for not more than thirty-six (36) months which shall be renewable upon completion of the department registration process as described in section (3) and paying a fee not to exceed ninety dollars (\$90). Each registration issued during the first year will be assigned an expiration date by the department.

(C) After August 28, 2004, persons registering for the first time and paying a ninety-dollar (\$90) fee, will receive a registration valid for thirty-six (36) months, unless otherwise suspended, revoked or surrendered, and shall be renewable upon completion of the department registration process described in section (3), and paying a fee not to exceed ninety dollars (\$90).

(D) After August 28, 2004, the department may issue a one (1)-time temporary regular OWTS installer registration, valid for no more than one hundred eighty (180) days for work in a specific county or counties. The temporary regular OWTS registration will be converted to a regular OWTS installer registration upon completion of a department-approved training program and completion of the department registration process as described in section (3). Failure to complete the training or the department registration process will result in termination of the person's temporary regular OWTS installer registration.

(E) After August 28, 2004, the department may issue a probationary regular OWTS installer registration for work in a specific county or counties. This registration will be valid for a specific period of time, as determined by the department, and will be dependent on the registered person meeting and maintaining specific requirements as established by the department.

### (4) Standards of Practice—Percolation Testers, OSE or OWTS Installers.

(A) A percolation tester or OSE shall:

1. Possess a current registration with the department before performing any activities related to a percolation test or morphology evaluation;

2. Record their registration number on all bids, proposals, contracts, invoices, soil evaluation reports, or other correspondence with the homeowner and administrative authority;

3. Provide true and accurate information on any application, percolation test report, soil evaluation report and any other OWTS documentation;

4. Maintain a current address and phone number with the department and submit any address or phone number changes to the department in writing within thirty (30) days of the change taking place;

5. Percolation tests must be conducted in accordance with section (2) of 19 CSR 20-3.060; and

6. Site/soil morphology evaluations completed by an OSE must comply with the standards detailed in sections (2) and (7) of 19 CSR 20-3.060 including but not limited to the following items:

A. Evaluate the nine (9) items listed in paragraphs (2)(A) 2.-10.;

B. Evaluate and classify six (6) site factors listed in subsection (7)(C), as suitable, provisionally suitable, or unsuitable according to subsections (7)(E) through (L);

C. Include a diagram showing location and extent of the area(s) evaluated;

D. Make recommendations regarding the use or effectiveness of water lowering systems when there is evidence of a high water table; and

E. Based on subsection (7)(M) and Tables 13 and 14, for horizons that are not classified as unsuitable, assign a conventional soil loading rate for each horizon and assign an alternative soil loading rate for each horizon at least to a depth of twelve inches (12") below the likely depth of an alternative system.

(B) A registered regular OWTS installer or a registered advanced OWTS installer shall:

1. Possess a current regular OWTS installer registration or advanced OWTS installer registration with the department before beginning construction of an on-site wastewater treatment system;

2. Record their registration number on all bids, proposals, contracts, invoices, permit application construction drawings, or other correspondence with the homeowner and administrative authority;

3. Provide true and accurate information on any application and any other OWTS documentation;

4. Begin the construction of an OWTS only after obtaining approval from the administrative authority, unless approval is not required;

5. Construct the OWTS meeting the construction and permit criteria required by sections 701.025–701.059, RSMo and any rule adopted thereunder or the more stringent requirements of the administrative authority, if applicable;

6. Construct the OWTS that has been authorized by the administrative authority for the specific location identified in the application;

7. Be present at the construction site during construction and supervise all construction activities;

8. Submit complete and accurate “certification without on-site inspection form,” when requested; and

9. Maintain a current address and phone number with the department and submit any address or phone number changes to the department in writing within thirty (30) days of the change taking place.

(5) The department may audit the work of a percolation tester, OSE, registered regular OWTS installer or registered advanced OWTS installer at any time to determine whether the standards of practice, as defined by this rule are being met. Failure to adhere to department standards may be cause for placement on probation, suspension, or revocation of the registration, or for mandatory successful completion of a training course and/or testing as described in section (2). The audit may be an unannounced visit to the property on which the percolation test, soil morphology examination or on-site sewage system installation was conducted, which may include an independent soil percolation test or soil morphology examination, or a visit within the period of a soil percolation test, soil morphology examination or on-site sewage system installation with or without prior appointment with the registered person.

(6) A percolation tester, or OSE or registered regular OWTS installer or registered advanced OWTS installer may have their registration placed on probation, suspended, or revoked if the person:

(A) Fails to meet the registration renewal requirements;

(B) Fails an audit or refuses to participate in an audit;

(C) Fails to submit reports, submits false reports or allows another individual to use his/her license;

(D) Is convicted of a violation of any provisions of sections 701.025 through 701.059, RSMo or any rules promulgated under these statutes;

(E) Has plead guilty or has been found guilty of an infraction, misdemeanor or felony involving misrepresentation, fraud or other crime relating to activities of percolation testing, soil morphology evaluations, installing, repairing, inspecting or otherwise associated with on-site sewage disposal systems;

(F) Directs or allows an unregistered person to conduct a percolation test, or soil morphology examination;

(G) Directs or allows an unregistered person to install an on-site wastewater treatment system without direct supervision; or

(H) Fails to comply with standards of practice established by this rule.

(7) The suspension or revocation of a percolation tester's or OSE's registration shall be served in writing by certified mail or personal service to the affected person or his/her representative. The decision of the department may be appealed to the Administrative Hearing Commission as provided in Chapters 536 and 621, RSMo.

(8) Any person whose registration has been revoked may not reapply for registration for at least one (1) year from date of revocation, and must complete the department training requirements for registration described in section (2) and complete the department registration process as described in section (3) above.

(9) A person may be permanently barred from reapplying for registration if—

(A) The person has plead guilty or has been found guilty of an infraction, misdemeanor or felony involving misrepresentation, fraud or other crime relating to activities associated with an OWTS; or

(B) The person has his/her registration revoked a second time within five (5) years.

(10) No person as defined in section 701.025, RSMo may authorize, permit, or knowingly allow the installation of an on-site wastewater treatment system by an unregistered person other than the property owner.

*AUTHORITY: sections 701.033, RSMo Supp. 2004 and 701.040, RSMo 2000. Emergency rule filed April 17, 1995, terminated April 26, 1995. Original rule filed April 17, 1995, effective Dec. 30, 1995. Emergency amendment filed Sept. 2, 2004, effective Sept. 12, 2004, expires March 10, 2005. Rescinded and readopted: Filed Sept. 2, 2004.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions two thousand five hundred seventy-seven dollars (\$2,577) in the first year and eighty-three dollars (\$83) annually thereafter in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities three hundred twenty-two thousand dollars (\$322,000) annually in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Bryant McNally, Division Director, Missouri Department of Health and Senior Services; Division of Environmental Health and Communicable Disease Prevention; PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC COST**

**I. RULE NUMBER**

Title: 19-DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division: 20-Environmental Health & CD Prevention

Chapter: 3-General Sanitation

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 20-3.080 Requirements for Percolation Testers or On-site Soils Evaluators and Registered On-site Wastewater Treatment System Installers.

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision:	Estimated Cost of Compliance in the Aggregate:
Missouri Department of Health and Senior Services	\$2,577 (first year) and \$83 (annually thereafter)
Local Public Health Agencies	\$0

**III. WORKSHEET**

**Installer registrations:**

Using standard fiscal note costs, the cost of a Health Program Representative I to review regular and advanced onsite wastewater treatment system installer registration applications and issue registrations full-time would be \$59,577 for the first year, and \$56,767 for the second year.

Fees are expected to generate \$57,000 per year, resulting in a net cost of:

$\$59,577 - \$57,000 = \$2,577$  for the first year.

After the first year, installer registration fees would cover administrative costs associated with registration activities, resulting in no net cost to the Missouri Department of Health and Senior Services.

**Percolation testers and Onsite soil evaluators:**

It is estimated that it will take 333 hours of a Health Program Representative I position to review percolation tester and onsite soil evaluator registration applications and issue registrations. This amount of time was divided by the total hours of an FTE to find the fraction of an FTE needed, resulting in 0.16 (333/2080). Using standard fiscal note costs, the cost of 0.16 of a Health Program Representative I is \$8,751 for the first year, and \$9,083 for the second year.

Fees are expected to generate \$9,000 each year, resulting in no net cost for the first year and \$83 net cost for the second year and annually thereafter.

**IV. ASSUMPTIONS**

1. We expect 1,900 regular and advanced onsite wastewater treatment system installers to register each year at \$30 per year per registration:

$$1,900 \times \$30 = \$57,000$$

2. We expect 225 percolation testers to register each year at \$30 per year per registration:

$$225 \times \$30 = \$6,750$$

3. We expect 75 Onsite Soil Evaluators to register each year at \$30 per year per registration:

$$75 \times \$30 = \$2,250$$

4. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.



**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Title: 19-DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division: 20-Environmental Health & CD Prevention

Chapter: 3-General Sanitation

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 20-3.080 Requirements for Percolation Testers or On-site Soils  
Evaluators and Registered On-site Wastewater Treatment System Installers.

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
300	New Installers	\$75,000 annually
1,600	Installers with existing Registrations	\$208,000 annually
25	New Percolation Testers	\$3,250 annually
200	Percolation Testers with existing Registrations	\$26,000 annually
75	Onsite Soil Evaluators	\$9,750 annually

**III. WORKSHEET**

1. Costs for installers to attend mandatory training class, which includes registration fee for one year:  
\$250.

2. At 300 new installers per year, annual cost to this classification will be:

$$300 \times \$250 = \$75,000$$

3. Registration fees are \$30 per year per installer (except for the initial registration fee, which is included in the training fee):

Total number registered per year: 1,900

Total number of new registrations per year: 300

Total number of registration renewals per year: 1,600 (1,900 – 300)

4. At 1,600 installer registration renewals per year, annual cost to this classification will be:

$$1,600 \times \$30 = \$48,000$$

5. At 1,600 installers registered each year, continuing education costs will be:

$$1,600 \times \$100 = \$160,000$$

6. Costs for new percolation testers to attend a mandatory training class: \$100

7. At 25 new percolation testers per year, annual training costs to this classification will be:

$$25 \times \$100 = \$2,500$$

8. Registration fees are \$30 per year per percolation tester:

Total number registered per year: 225

Total number of new registrations per year: 25

Total number of registration renewals per year: 200 (225 -- 25)

9. At 25 new percolation testers per year, annual registration costs to this classification will be:

$$25 \times \$30 = \$750$$

10. At 200 percolation tester registration renewals per year, annual cost to this classification will be:

$$200 \times \$30 = \$6,000$$

11. At 200 percolation testers registered each year, continuing education costs will be:

$$200 \times \$100 = \$20,000$$

12. Registration fees are \$30 per year per Onsite Soil Evaluator:

$$75 \times \$30 = \$2,250$$

13. At 75 Onsite Soil Evaluators registered each year, continuing education costs will be:

$$75 \times \$100 = \$7,500$$

#### IV. ASSUMPTIONS

1. There will be 300 new installers and 25 new percolation testers registered each year.
2. We estimate 300 installers 25 percolation testers will leave the industry each year.
3. There will be 1,900 total installers, 225 percolation testers, and 75 onsite soil evaluators registered each year.
4. Cost of one continuing education unit will be \$30 - \$200, with an average of \$100 per unit.
5. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES**

**Division 30—Division of Health Standards and Licensure  
Chapter 83—Definition of Terms**

**PROPOSED AMENDMENT**

**19 CSR 30-83.010 Definition of Terms.** The department proposes to amend the Purpose statement, sections (1), (3), (4), (5), (6), (12), (14), (23) and (32), add new sections (2) and (9), and renumber the sections accordingly.

*PURPOSE: This proposed amendment updates the definitions, which apply to 19 CSR 30-85, 19 CSR 30-86, 19 CSR 30-87 and 19 CSR 30-88.*

*PURPOSE: This rule defines terms used in the rules for long-term care facilities as set forth in chapters [13 CSR 15-14, 13 CSR 15-15, 13 CSR 15-17, 13 CSR 15-18/ 19 CSR 30-85, 19 CSR 30-86, 19 CSR 30-87, and 19 CSR 3-88.*

(1) Administrator—**Shall mean** [A/an individual person who is in general administrative charge of a facility.

(2) Automated dispensing system—**Shall mean** a mechanical system that performs functions that may include, but are not limited to, storing, packaging or dispensing medications, and that collects, controls and maintains all transaction information.

[(2)](3) Certified-medication technician—**Shall mean** a nursing assistant who has completed a course in medication administration approved by the [Division of Aging] Department of Health and Senior Services.

[(3)](4) Chemical restraint—**Shall mean** any [drug, utilized in such a strength or in such a manner as to suppress normal physical or mental activity] medication that is used for discipline or convenience and not required to treat medical symptoms. For the purposes of this definition, discipline means any action taken by the facility for the purpose of punishing or penalizing residents and convenience means any action taken by the facility to control a resident's behavior or maintain a resident with a lesser amount of effort by the facility and not in the resident's best interest.

[(4)](5) Communicable disease—Any illness, disease or condition reportable to the Missouri Department of Health and Senior Services as required by 19 CSR 20-20.010 and 19 CSR 20-20.020 is considered, for the context of these rules, a communicable disease.

[(5)](6) Control of medication—**Shall mean** assuming responsibility by the facility for [the storage and distribution or administration] all facets of control of medication including, but not limited to, acquisition, storage, security and administration.

[6]/(7) Designee—**Shall mean** an individual who has been designated in writing by a resident to handle matters and receive reports related to his/her personal possessions and property.

[(7)](8) Emergency medical procedure—**Shall mean** those written policies and procedures which describe the types and degrees of accidents and injuries, how they will be treated, by whom, in which instances the resident's physician will be notified and how quickly.

(9) Emergency medication supply—**Shall mean** a limited number of dosage units of prescription medications that may be administered to a resident in an emergency situation or for initial doses of a necessary medication when a pharmacy cannot provide a prescription for a resident within a reasonable time based on the resident's clinical needs at the time.

[(8)](10) Existing or existing licensed facility—**Shall mean** a long-term care facility which was licensed and in operation or one whose plans were approved prior to June 10, 1981 for a skilled or intermediate care facility or prior to November 13, 1980 for residential care facilities I and II.

[(9)](11) Exit—**Shall mean** a door leading to the outside or through a horizontal exit in a fire wall to a fire-safe area in the building.

[(10)](12) Fire-resistant construction—For intermediate care facilities and skilled nursing facilities, fire-resistant construction shall mean that a facility meets the specifications for [two (2)-hour fire-resistive construction or protected noncombustible] Type II (222) or Type II (111) construction as given in the National Fire Protection Association Code 220. The definition of fire-resistant construction for residential care facilities I and II is given in [13 CSR 15-15.022(42)] 19 CSR 30-86.022(2)(B).

[(11)](13) Hazardous area—**Shall mean** furnace rooms other than electric forced air furnaces, laundries, kitchens, maintenance shops and storage rooms of over one hundred (100) square feet and any areas which contain combustible materials which will be either easily ignited, burn with an intense flame or result in the production of dense smoke and fumes.

[(12)](14) Level I medication [technician] aide—**Shall mean** an individual who has completed a course approved by the [Division of Aging] Department of Health and Senior Services in medication administration in a residential care type facility.

[(13)](15) Long-term care facility—**Shall mean** a facility that is licensed either solely or in combination as a skilled nursing facility, an intermediate care facility, a residential care facility II or a residential care facility I.

[(14)](16) Major fraction thereof—**Shall mean** anything over fifty percent (50%) of the number of occupied beds.

[(15)](17) Major remodeling—**Shall mean** any remodeling of a long-term care facility which involves the addition of resident-use rooms, which affects fire safety or the structure of the building.

[(16)](18) Multistory building—**Shall mean** any building with more than one (1) floor entirely above the grade. A floor that is partially below grade will be counted as the first story to determine sprinkler requirements only if it contains resident sleeping rooms.

[(17)](19) New or newly licensed facility—**Shall mean** a long-term care facility whose plans are approved or which is licensed after June 10, 1981 for a skilled nursing or intermediate care facility or after November 13, 1980 for residential care facility I or II.

[(18)](20) Nursing personnel—**Shall include** any employee, including a nurse's aide or an orderly, who provides or assists in the provision of direct resident health care services.

[(19)](21) Operator—**Shall mean** any person licensed or required to be licensed under the provisions of sections 198.003–198.096, RSMo, in order to establish, conduct or maintain a facility. The term person required to be licensed shall mean any person having the following, as determined by the division:

(A) Ultimate responsibility for making and implementing decisions regarding the operation of the facility;

(B) Ultimate financial control of the operation of a facility; and

(C) Legal right to possession of the premises on which a facility is located.

[(20)](22) Person—**Shall mean** any individual, or any entity, including, but not limited to, a corporation, partnership, association, non-

profit organization, fraternal organization, church or political subdivision of the state of Missouri.

**[(21)](23) Physical restraint**—Shall mean *[anything which serves to inhibit physical mobility including, but not limited to, any type of strap or harness or any locked door which is not customarily locked as a matter of security]* **any manual method or physical or mechanical device, material or equipment attached to or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body. Physical restraints include, but are not limited to leg restraints, arm restraints, hand mitts, soft ties or vests, lap cushions and lap trays the resident cannot remove easily. Physical restraints also include facility practices that meet the definition of a restraint, such as the following:**

**(A) Using side rails that keep a resident from voluntarily getting out of bed;**

**(B) Tucking in or using Velcro to hold a sheet, fabric or clothing tightly so that a resident's movement is restricted;**

**(C) Using devices in conjunction with a chair, such as trays, tables, bars or belts, that the resident can not remove easily, that prevent the resident from rising;**

**(D) Placing the resident in a chair that prevents a resident from rising; and**

**(E) Placing a chair or bed so close to a wall that the wall prevents the resident from rising out of the chair or voluntarily getting out of bed.**

**[(22)](24) Physician**—Shall mean an individual licensed to practice medicine in the state of Missouri under Chapter 334, RSMo.

**[(23)](25) Premises**—Shall mean any structure(s) that are in close proximity one to the other and which are located on a single piece of property.

**[(24)](26) Protective oversight**—Shall mean an awareness twenty-four (24) hours a day of the location of a resident, the ability to intervene on behalf of the resident, supervision of nutrition, medication, or actual provisions of care and the responsibility for the welfare of the resident, except where the resident is on voluntary leave.

**[(25)](27) Qualified dietitian**—Shall mean an individual who is registered by the American Dietetic Association or who is eligible for registration.

**[(26)](28) Qualified therapist**—Shall mean an individual who is either registered or is eligible for registration by the national accrediting association for that therapy or, if applicable, is licensed by the state of Missouri for the practice of the profession in which s/he is engaged.

**[(27)](29) Qualified therapy assistant**—Shall mean an individual who would be qualified as an occupational therapy or physical therapy assistant as outlined in CFR 405.1101.

**[(28)](30) Responsible party**—Shall mean an individual who has been designated in writing by the resident to handle matters and receive reports related to his/her general condition.

**[(29)](31) Self-administration of medication**—Shall mean the act of actually taking or applying medication to oneself.

**[(30)](32) Self-control of medication**—Shall mean assuming **immediate responsibility by a resident** for the storage and administration of medication for oneself **while the facility retains ultimate control of medication.**

**[(31)](33) Skilled nursing care**—Shall mean services furnished pursuant to physicians' orders which require the skills of licensed nurs-

es and which are provided directly by or under the on-site supervision of these personnel. Examples of skilled nursing care may include, but are not limited to: administration of levine tube or gastrostomy tube feedings; nasopharyngeal and tracheotomy aspiration; insertion of medicated or sterile irrigation solutions and replacement of catheters; administration of parenteral fluids; inhalation therapy treatments; administration of other treatments requiring aseptic technique; and administration of injectable medication other than insulin.

**[(32)](34) Voluntary leave**—Shall mean an off-premise leave initiated by: a) a resident that has not been declared mentally incompetent or incapacitated by a court; or b) a legal guardian of a resident that has been declared mentally incompetent or incapacitated by a court.

**AUTHORITY:** sections 198.006, RSMo Supp. 2003 and 198.009, RSMo 2000. Emergency rule filed Sept. 7, 1979, effective Sept. 28, 1979, expired Jan. 24, 1980. This rule originally filed as 13 CSR 15-11.010. Original rule filed Sept. 7, 1979, effective Jan. 12, 1980. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 14, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin J.D., M.P.A., Deputy Director Senior Services and Regulation, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

### Division 30—Division of Health Standards and Licensure Chapter 89—Specialized Long-Term Care Facilities or Special Care Units

#### PROPOSED RESCISSION

**19 CSR 30-89.010 Pediatric Nursing Facilities.** This rule set forth definitions and standards for nursing facilities to follow if care is being provided exclusively for persons under twenty-one years of age.

**PURPOSE:** This rule is being rescinded because there are no longer any facilities in Missouri to which these rules apply.

**AUTHORITY:** sections 198.009 and 198.079, RSMo 1986. This rule originally filed as 13 CSR 15-20.010. Original rule filed Nov. 2, 1990, effective April 29, 1991. Moved to 19 CSR 30-89.010, effective Aug. 28, 2001. Rescinded: Filed Sept. 14, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with David S. Durbin J.D., MPA, Deputy Department Director Senior Services and Regulation, Department of Health and Senior Services, PO Box 570,



Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES**

**Division 30—Division of Health Standards and Licensure  
Chapter 90—Adult Day Care Program Licensure**

**PROPOSED AMENDMENT**

**19 CSR 30-90.010 Definitions.** The division proposes to amend the Purpose statement, amend sections (1), (2), (5), (6), (8), (10), (11), (13), (16), (17), and (21); add new sections (3), (4), (7), (9), (12), (14), (15), (18) through (20), and (22), delete section (7), and renumber sections accordingly.

*PURPOSE: This proposed amendment is to update the definitions which apply throughout Chapter 90, Adult Day Care Program Licensure.*

*PURPOSE: The following definitions are listed to establish an understanding of the terms as applied to Chapter [8] 90, Adult Day Care Program Licensure.*

(1) Adult day care program/. *A/* means a group program designed to provide care and supervision to meet the needs of five (5) or more functionally impaired adults for periods of less than twenty-four (24) hours but more than two (2) hours per day in a place other than the adult's own home.

(2) Adult day care provider/. means *[T/*the person, corporation, partnership, association or organization legally responsible for the overall operation of the adult day care program/, *who has a current license, or provisional license, to operate issued by the Division of Aging]*.

(3) Adult day health care means an adult day care program certified to provide Medicaid reimbursed services to Medicaid-eligible participants in accordance with standards set forth in 19 CSR 70-92.010.

(4) Alzheimer's special care unit or program means any adult day care program that provides a designated separated unit or program for participants with a diagnosis of probable Alzheimer's disease or related disorder, to prevent or limit access by a participant outside the designated or separated area; or that advertises, markets or promotes the adult day care program as providing Alzheimer's or dementia care services.

*[(3)](5)* Applicant/. *The/* means any person, corporation, partnership, association or organization which has submitted an application to operate an adult day care program but has not yet been approved and issued a license/, *or provisional license/,* by the Division of *[Aging]* Senior Services and Regulation.

*[(4)](6)* Associated adult day care program/. *An/* means an adult day care program which is *[physically attached with]* located in a building also occupied by another organization established primarily to offer other services *[(such as/* for example: medical care, long-term care and human services) but has designated space and staff for an adult day care program which is *[above]* in addition to the existing space and staffing requirements for the residents, patients or clients.

(7) Department means the Missouri Department of Health and Senior Services.

*[(5)](8)* Direct care staff/. *Those/* means those staff (paid and volunteer) assigned to take care of the direct needs of participants.

(9) Division means the Division of Senior Services and Regulation of the Missouri Department of Health and Senior Services.

*[(6)](10)* Free-standing adult day care program/. *A/* means a program of adult day care services which does not share staffing or licensed space or any physical components of space, equipment, furnishings, dietary, security, maintenance or utilities utilized in the provision of services with any other organization.

*[(7)](11)* Functionally impaired adult. An individual aged eighteen (18) or older who, by reason of age or infirmity, requires care and supervision.

(12) Immediate danger means a situation or condition which presents a substantial likelihood of death, life-threatening injury or serious physical or mental harm to a participant.

*[(8)](13)* Individual plan of care/. *The/* means the adult day care provider's written description of the amount, duration and scope of services to be provided to each individual participant.

(14) License means the document issued by the Division of Senior Services and Regulation in accordance with the provisions of sections 199.025 and 660.403 through 660.420, RSMo to an adult day care program which authorizes the adult day care provider to operate the program in accordance with the provisions of sections 199.025, and 660.403 to 660.420, RSMo and the applicable rules promulgated pursuant thereto.

(15) Licensed nurse means a person currently licensed under the provisions of Chapter 335, RSMo to engage in the practice of practical nursing or professional nursing.

*[(9)](16)* Long-term care facility/. *Any holding a valid license to operate, issued by the Missouri Division of Aging including: skilled nursing facilities, intermediate care facilities or residential care facilities I and II as defined by section 198, RSMo; or distinct part skilled care units, intermediate care units or residential care units licensed by the Missouri Department of Health as defined by 19 CSR 30-20.010.]* means a "facility" as defined in section 198.006(6) or a "long-term care unit" as defined in 19 CSR 30-20.040.

*[(10)](17)* Medical care facility/. means a hospital, rehabilitation facility or other facility holding a valid state license to operate, issued by the Missouri *[Division]* Department of Health and Senior Services, as defined by 19 CSR 30-20.*[010/040]*.

(18) Participant means an adult who by reason of age or infirmity requires care and supervision and who is enrolled in an adult day care program.

(19) Person means any individual, firm, corporation, partnership, association, agency or any other business organization, including but not limited to limited liability companies, regardless of the name used.

(20) Program director means the individual person responsible for the on-site general administration of the adult day care program.

(21) Provisional license means the document issued by the division in accordance with the provisions of sections 199.025, RSMo and 660.403 through 660.420, RSMo to an adult day care program which is currently not meeting the requirements necessary to obtain a license.

(22) **Related** means any individual who is related to any of the following by reason of blood, marriage or adoption: parent, child, grandchild, brother, sister, half-brother, half-sister, step-parent, uncle, aunt, niece, nephew or first cousin.

(23) **Volunteer** means an individual who is utilized by the program to provide a direct care service to program participants with recurring contact whether or not supervised by other employees or volunteers.

*AUTHORITY:* sections 660.050[, RSMo Supp. 1992] 2003 and 660.418, RSMo [1986] 2000. This rule originally filed as 13 CSR 15-8.010. Original rule filed Oct. 15, 1984, effective Jan. 11, 1985. Moved to 19 CSR 30-90.010, effective Aug. 28, 2001. Amended: Filed Sept. 14, 2004.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin J.D., M.P.A., Deputy Department Director Senior Services and Regulation, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## **Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

### **Division 30—Division of Health Standards and Licensure Chapter 90—Adult Day Care Program Licensure**

#### **PROPOSED AMENDMENT**

**19 CSR 30-90.020 Licensure Requirements.** The division proposes to amend sections (1), (2), (4), (6) through (10), add new sections (3), (5), (14), and renumber sections accordingly and replace the forms that follow this rule from the *Code of State Regulations*.

*PURPOSE:* This rule is being amended to update the requirements for adult day care program licensure; include the requirements of the "Alzheimer's Special Care Disclosure Act" pursuant to sections 198.500 through 198.515, RSMo; update and clarify the licensure revocation and suspension procedures, including the appeal process; and add an exceptions process for adult day care programs.

(1) Any person who establishes, maintains or operates an adult day care program, or advertises or holds him/herself out as being able to perform any adult day care service, shall obtain the proper license from the division, except [for the following:] as provided in section (5) of this rule.

[(A) Any adult day care program operated by a person in which care is offered for no more than two (2) hours per day;

(B) Any adult day care program maintained or operated by the federal government except where care is provided through management contract;

(C) Any person who cares solely for persons related to the provider or who has been designated as guardian of that person;

(D) Any adult day care program which cares for no more than four (4) persons who are not related within the fourth degree of consanguinity or affinity to the adult day care provider;

(E) Any adult day care program licensed by the Department of Mental Health under Chapter 630, RSMo, which provides care, treatment and habilitation, exclusively to adults who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability as defined; or

(F) Any adult day care program administered or maintained by a religious not-for-profit organization serving a social or religious function if the adult day care program does not hold itself out as providing the prescription or usage of physical or medical therapeutic activities or as providing or administering medicines or drugs.]

(2) An [application] applicant shall [be] submit[ted] the following documents to the division for each proposed associated or free-standing adult day care program: [on forms supplied by the Division of Aging.]

(A) A fully completed, properly signed and notarized Application for License to Operate an Adult Day Care Program, included herein; and

(B) The required licensure fee.

(3) Every adult day care program that includes an Alzheimer's special care unit or program as defined in section 198.505, RSMo, shall submit to the division, as part of the licensure application or renewal, the following:

(A) A completed Alzheimer's Special Care Services Disclosure form (MO Form 886-3548), available at [http://www.oa.state.mo.us/gs/form/fm/\\_indiv.htm](http://www.oa.state.mo.us/gs/form/fm/_indiv.htm), stating how the care is different from the rest of the program in the following areas:

1. The Alzheimer's special care unit's or program's written statement of its overall philosophy and mission which reflects the needs of participants afflicted with dementia;

2. The process and criteria for placement in, or discharge from, the program;

3. The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;

4. Staff training and continuing education practices;

5. The physical environment and design features appropriate to support the functioning of cognitively impaired participants;

6. The frequency and types of participant activities;

7. The involvement of families and the availability of family support programs;

8. The costs of care and any additional fees; and

9. Safety and security measures; and

(B) A document approved by the division which contains, but is not limited to, updated information on selecting an Alzheimer's special care unit or program.

[(3)](4) A nonrefundable fee shall accompany each adult day care program application for license according to the following schedule for licensed capacity which is the number of program participants who may be present at any one time:

(A) For eight (8) participants or fewer, the fee is twenty-five dollars (\$25);

(B) For nine through sixteen (9-16) participants, the fee is fifty dollars (\$50);

(C) For seventeen through twenty-four (17-24) participants, the fee is seventy-five dollars (\$75); and

(D) For twenty-five (25) or more participants, the fee is one hundred dollars (\$100).

(5) Unless the program has voluntarily submitted to licensure in accordance with section 660.409, RSMo, adult day care licensure requirements shall not apply to any:

(A) Adult day care program operated by a person in which care is offered for no more than two (2) hours per day;

(B) Adult day care program maintained or operated by the federal government except where care is provided through a management contract;

(C) Person who cares solely for persons related to the adult day care provider or who has been designated as guardian of that person;

(D) Adult day care program which cares for no more than four (4) persons who are not related to the adult day care provider as defined in 19 CSR 30-90.010;

(E) Adult day care program licensed by the Department of Mental Health under Chapter 630, RSMo, which provides care, treatment and habilitation exclusively to adults who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability; or

(F) Adult day care program administered or maintained by a religious not-for-profit organization serving a social or religious function if the adult day care program does not hold itself out as providing the prescription or usage of physical or medical therapeutic activities or as providing or administering medicines or drugs.

[[4]](6) The division shall review each application and investigate each applicant and adult day care program to determine *[that]* if they comply with the adult day care licensure law and these *[rules]* regulations and to insure that the health and safety of the participants are protected.

[[5]](7) If the adult day care program and the applicant are found to be in compliance, a regular license will be issued for a period not to exceed two (2) years for the premises and persons named in the application.

[[6]](8) If an adult day care program is not currently meeting all of the requirements for licensure but demonstrates the potential capacity to meet the full requirements for licensure, a provisional license may be issued if there is no *[threat]* detriment to the health, *[and]* safety and welfare of the participants in the program. The provisional license is nonrenewable and will be valid for a maximum of six (6) months. Any regular license issued subsequent to a provisional license will be valid for a period not to exceed two (2) years from the date that the provisional license was issued.

[[7]](9) Licensure renewal applications will be sent to adult day care providers at least sixty (60) days prior to the expiration date of the current license. Renewal applications must be accompanied by *[a]* the required nonrefundable fee and be post-/marked at least thirty (30) days prior to the expiration date of the current license. *[The nonrefundable fee is identified in the fee schedule in section (3) of this rule.]*

[[8]](10) A regular or provisional license may be revoked or suspended for *[failure to cooperate with the division or]* failure to comply with statutory or regulatory requirements. The division may revoke or suspend a license in any case in which it finds that the adult day care provider:

(A) Failed to comply with any lawful request from the divi-

sion to inspect the premises or investigate any complaint to determine compliance with sections 660.403 through 660.420, RSMo;

(B) Falsified documents, records or any relevant information relating to the operation of the adult day care program;

(C) Placed participants in immediate danger whether or not the adult day care program or adult day care provider corrected the situation which placed participants in immediate danger; or

(D) Failed to achieve substantial compliance with statutory and regulatory requirements after being given a reasonable opportunity and period of time in which to correct the deficiencies cited by the division.

[[9]](11) If any person is refused a license, or a license is suspended or revoked, or other official action by the division is detrimental to the provider of an adult day care program, a determination from the *[a]*Administrative *[h]*Hearing *[c]*Commission may be requested pursuant to provisions of section *[161.272/621.045]*, RSMo et seq. This action must be taken within thirty (30) calendar days of official notification of the adverse action taken by the division.

[[10]](12) The license, or provisional license, issued to the adult day care provider, shall not be transferable when there is a change of ownership or when the program is moved to another location, building or *[facility]* premises.

[[11]](13) The application for an adult day care program license shall be signed by the applicant's owner, chairman of the board or chief executive officer and shall be notarized.

(14) The division may, subject to the considerations noted below, grant exceptions for specified periods of time to any rule imposed by the division if the division determines that the exception to the rule would not potentially endanger the health, safety or welfare of any participant in the adult day care program.

(A) The owner or operator of the adult day care program shall make requests for exceptions in writing to the director of the division. The requests shall contain:

1. If the exception request is being made due to a deficiency being cited, a copy of the latest Letter of Notification which indicates the violation;

2. The section number and text of the rule for which the exception is being requested;

3. Specific reasons why compliance with the rule would impose an undue hardship on the operator, including an estimate of any additional cost that might be involved;

4. An explanation of the relevant or extenuating factors; and

5. A complete description of the individual characteristics of the premises, program, participants or other factors that would safeguard the health, safety and welfare of the participants if the exception were granted.

(B) The division shall issue a written decision stating the reasons for approval or denial of the request for an exception. If approved, the length of time the exception will be in effect and any additional corrective factors upon which the exception is granted shall be stated in the decision.

(C) The division shall only grant exceptions to licensure requirements set out in rules imposed by the division and cannot grant exceptions to requirements established by state statutes, federal regulations or state regulations of other state agencies.





MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
DIVISION OF SENIOR SERVICES AND REGULATION  
SECTION FOR LONG TERM CARE

**APPLICATION FOR LICENSE TO OPERATE AN  
ADULT DAY CARE PROGRAM**

<p>In accordance with the requirements of sections 660.400 through 660.420, RSMo (2000) and 19 CSR 30-90.010 through 19 CSR 30-90.080, an application is hereby made for licensure to establish, conduct or maintain an adult day care program as: <i>(check one)</i></p> <p><input type="checkbox"/> Free Standing Adult Day Care Program</p> <p><input type="checkbox"/> Associated Adult Day Care Program (List Name of Associated Organization)</p> <p>Program Capacity:</p>	<p><input type="checkbox"/> New Facility      <input type="checkbox"/> Change of Owner</p> <p><input type="checkbox"/> Renewal</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Provisional License No.</td> <td style="width: 50%;">Issued</td> </tr> <tr> <td>Regular License No.</td> <td>Issued</td> </tr> <tr> <td>Effective Date</td> <td>Expiration Date</td> </tr> <tr> <td colspan="2">Date Fee Received – Amount</td> </tr> <tr> <td colspan="2">Check/Money Order Number</td> </tr> </table>	Provisional License No.	Issued	Regular License No.	Issued	Effective Date	Expiration Date	Date Fee Received – Amount		Check/Money Order Number	
Provisional License No.	Issued										
Regular License No.	Issued										
Effective Date	Expiration Date										
Date Fee Received – Amount											
Check/Money Order Number											
<b>FEE SCHEDULE</b>											
Check licensed capacity requested:											
<input type="checkbox"/>	8 or fewer	\$25.00									
<input type="checkbox"/>	9 through 16	\$50.00									
<input type="checkbox"/>	17 through 24	\$75.00									
<input type="checkbox"/>	25 or more	\$100.00									
2. Name and address of Adult Day Care Program:		Telephone Number (     )     -									
		County (or City of St. Louis)									
3. If a change of ownership, former name of adult day care program:											
4. Type of provider of the adult day care program: (check one)											
<b>Governmental</b> <input type="checkbox"/> City <input type="checkbox"/> County <input type="checkbox"/> State	<b>Not-for-profit</b> <input type="checkbox"/> Religious organization <input type="checkbox"/> Corporation <input type="checkbox"/> Other: _____	<b>Proprietary</b> <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation									
5. Name and address of provider:		Telephone Number (     )     -									
		County (or City of St. Louis)									
6. Name, address and percentage of ownership of any individual or entity who owns an interest of five percent (5%) or more in the land, structure(s), mortgage or other obligation, or lease on which an adult day care program is being conducted. Indicate whether this ownership involves land, structure(s), mortgage or lease.											

7. Name of adult day care program director:		
8. Has the program, provider director or any corporate officers, directors or holders of five percent (5%) or more stock or ownership ever been convicted of a misdemeanor relating to the operation of an adult day care program, long-term care facility or of any felony? <input type="checkbox"/> Yes <input type="checkbox"/> No  If yes, list the person's name and type of conviction:		
9. Fire Safety and Facility Physical Requirements (for initial licensure applications only):  For <b>Free Standing Adult Day Care Programs</b> submit a diagram of the building that houses the adult day care program. This diagram shall be labeled to show exits; fire extinguishers; smoke detectors and room use, such as dining, crafts, quiet room, therapy or offices. This diagram shall give exact measurements of the area to be used for the adult day care program.  For <b>Associated Adult Day Care Programs</b> submit a diagram of the designated space for the adult day care program. This diagram shall show the portion set aside for the adult day care program including office space; dining area; quiet area; craft area; general adult day care meeting area or therapy. This diagram shall give exact measurement of the area used for the adult day care program and also show the locations of exits or entrances for day care; fire extinguishers; and other fire safety features, such as pull stations and smoke detectors.		
10. Is an Alzheimer's special care unit/program a part of this center? <input type="checkbox"/> Yes <input type="checkbox"/> No  (If yes, then it is required MO Form 580-2637 (2-03), Alzheimer's Special Care Services Disclosure Form, be submitted with this application.)		
11. The fee must be submitted with this application. Enclose a check or money order ONLY payable to the Missouri Department of Health and Senior Services.		
I hereby affirm that I, as an individual, or the operating corporation or partnership for which I sign, have adequate financial resources to properly construct, equip and operate the adult day care program referred to in this application, and hereby authorize the division to obtain information from third parties verifying this.		
I further affirm that I have read, understand and agree to abide by the provisions of sections 660.400 through 660.420, RSMo (2000), and the Adult Day Care Program Licensure rules of the Division of Senior Services and Regulation — specifically, 19 CSR 30-90.010 through 19 CSR 30-90.080.		
I further affirm that I understand that I am eligible for a license only if the program and the provider are in compliance with the law and the regulations thereunder, and that a license may be revoked at any time that the facility, provider or operator fail to comply with such laws and rules.		
I further affirm under the penalties of perjury, that all documents and information required by the division to be filed pursuant to this application are true and correct to the best of my knowledge and belief, that the statements contained in this application and any attached information are true and correct to the best of my knowledge and belief and that all required documents are either included with the application or are currently on file with the division.		
<b>MUST BE SIGNED IN PRESENCE OF NOTARY</b>	Applicant's Signature	
	Date	
	Print or Type Name	
	Telephone Number (     )     -	
Notary Public Embosser or Black Ink Rubber Stamp Seal	State of	
	County	
	Signed and sworn to before me this _____ day of _____, 20____.	
	_____ (Notary Public's Name)	
	My commission expires _____, 20____.	



**AUTHORITY:** sections 660.050, RSMo Supp. [1992] 2003 and 660.418, RSMo [Supp. 1986] 2000. This rule originally filed as 13 CSR 15-8.020. Moved to 19 CSR 30-90.020, effective Aug. 28, 2001. Original rule filed Oct. 15, 1984, effective Jan. 11, 1985. Amended: Filed Sept. 14, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, J.D., M.P.A., Deputy Director Senior Services and Regulation, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

### Division 30—Division of Health Standards and Licensure Chapter 90—Adult Day Care Program Licensure

#### PROPOSED RESCISSION

**19 CSR 30-90.030 Participants' Rights and Program Policies.** This rule established the rights of participants in adult day care programs and required providers to have written program policies.

**PURPOSE:** This rule is being rescinded to transfer the provisions of this rule to 19 CSR 30-90.050 Program Policies and Participant Care Requirements and Rights.

**AUTHORITY:** sections 660.050 RSMo Supp. 1992 and 660.418, RSMo 1986. This rule originally filed as 13 CSR 15-8.030. Moved to 19 CSR 30-90.030, effective Aug. 28, 2001. Original rule filed Oct. 15, 1984, effective Jan. 11, 1985. Rescinded: Filed Sept. 14, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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## Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

### Division 30—Division of Health Standards and Licensure Chapter 90—Adult Day Care Program Licensure

#### PROPOSED AMENDMENT

**19 CSR 30-90.040 Staffing Requirements.** The division proposes to amend sections (1) through (4), (9), (10) through (12), add new

sections (1), (3), (9) through (19), delete sections (5) through (8) and renumber all sections accordingly.

**PURPOSE:** This rule is being amended to update language and clarify the staffing requirements for the adult day care program; include job duties and responsibilities for the position of program director; add requirements for background checks through the Family Care Safety Registry in accordance with sections 210.900 through 210.936, RSMo Supp. 2001; require the exercise of business judgement in utilizing persons who are on the Employee Disqualification List; update curriculum for orientation and in-service training; and add the dementia-specific training requirements in accordance with section 660.050.8, RSMo.

**(1) The adult day care provider, as defined in 19 CSR 30-90.010, shall be responsible for assuring compliance with all applicable laws and rules.**

**[(1)](2) The adult day care program shall have a program director who is responsible for the day-to-day operation of the program. Either the program director or [his/her] the program director's designee shall be present and in charge during all hours that participants are on the premises. The program director and [his/her] any such designee shall be qualified by demonstrated competence, specialized background, education, or experience to manage the day-to-day operation of [the] an adult day care program.**

**(3) The program director's responsibilities shall include, but not be limited to:**

**(A) Managing the adult day care program as necessary for the health, safety and welfare of the participants;**

**(B) Complying with the laws and rules pertaining to the adult day care program;**

**(C) Ensuring that participants receive appropriate care according to their needs;**

**(D) Preserving the rights of participants;**

**(E) Meeting staffing, record keeping, facility and fire safety requirements;**

**(F) Directing and supervising staff, as required, to meet the needs of the participants;**

**(G) Conducting background checks and criminal record reviews as required and necessary to protect the health, safety and welfare of participants;**

**(H) Providing staff training as needed and appropriate to meet the needs of the participants; and**

**(I) Providing direct care services when necessary to meet the needs of the participants.**

**[(2)](4) Direct care paid staff shall be at least eighteen (18) years of age and qualified by education, training, [and] experience or demonstrated competence in order to perform the duties required by the written job description.**

**[(3)] (5) Volunteer staff shall be qualified by education, training, experience[, or both,] or demonstrated competence to perform the duties required by the written job description.**

**[(4)] (6) The adult day care provider shall provide a sufficient number of direct care staff on duty at all times to meet the needs of each participant and assure that participants are never left unattended. At a minimum, there shall be at least two (2) direct care staff persons when two through sixteen (2-16) participants are present and one (1) additional direct care staff person for any portion of eight (8) additional participants present. In calculating the staffing ratios:**

**(A) The program director shall not be counted to meet the required direct care staff ratio if serving as an administrator or manager in a long-term care facility on the same premises;**

(B) The program director may be counted only when it is necessary for the program director to provide direct care in order to ensure that the needs of the participants are met;

(C) In an associated adult day care program, direct care staff shall not be counted simultaneously to meet the required staffing ratios for both the long-term care or medical care facility and the associated adult day care or any other affiliated program;

(D) Secretaries, cooks, accountants and other staff members who provide no direct care shall not be considered in calculating the staffing ratio, but such staff may be counted only if and when they are providing direct care to the participants; and

(E) Trained volunteer staff at least eighteen (18) years of age may be counted in the direct care staff to participant ratio provided a written volunteer program description includes in-service training and a system for ensuring the presence of volunteer help as scheduled.

*[(5) The director shall not be counted to meet the required staff ratio if there are nine (9) or more participants present.*

*(6) Trained volunteers at least eighteen (18) years of age may be counted in the direct care staff to participant ratio provided a volunteer program description, including the training to be provided and the system, for assuring the presence of volunteer help as scheduled, has been submitted to and approved by the Division of Aging.*

*(7) Secretaries, cooks, accountants and other nondirect care staff members shall not be considered in calculating the staffing ratio.*

*(8) Direct care staff shall not be counted simultaneously to meet the required staffing ratios for both the long-term care or medical care facility and the associated adult day care program.]*

*[(9)](7) All staff who have direct contact with participants shall be able to perform the assigned job duties in the adult day care program and shall be free of communicable disease[, listed in 19 CSR 20-20.020 and physically and emotionally able to work in the adult day care program.] in accordance with the department's regulations pertaining to communicable diseases, specifically 19 CSR 20-20.010 through 19 CSR 20-20.100, as amended. Persons who have been diagnosed with a communicable disease may return to duty only with written approval from a physician's written approval or the physician's designated agent. The program director shall be responsible for monitoring the health of employees.*

*[(10)](8) No person shall be employed to work or allowed to volunteer, as defined in 19 CSR 30-90.010, in any capacity in the adult day care program who left or was discharged from employment with any other employer due to abuse or neglect to patients, residents or clients and the dismissal [was upheld by administrative review or conviction. The adult day care provider shall have made a reasonable check of references on all employees and volunteers.] or departure has not been reversed by any tribunal or agency.*

(9) Each adult day care provider shall require all new applicants for employment in positions involving contact with participants to:

(A) Disclose if he or she is listed on the Employee Disqualification List (EDL); and

(B) Disclose his or her criminal history, including any conviction or a plea of guilty to a misdemeanor or felony charge and any suspended imposition of sentence, any suspended execution of sentence or any period of probation or parole; and

(C) Sign a consent form authorizing a criminal record review with the Missouri Highway Patrol through:

1. The Missouri Highway Patrol in accordance with requirements of Chapter 43, RSMo; or

2. A private investigatory agency; or

3. The Family Care Safety Registry (FCSR), providing the applicant is registered and listed in the registry.

(10) The adult day care provider shall make periodic checks of the EDL to determine whether any current employee, contractor or volunteer has been recently added to the list. These checks shall be made at least every ninety (90) days by contacting the FCSR once the individual is registered and listed on the registry.

(11) Prior to allowing any person who has been hired as a full-time, part-time or temporary position to have contact with participants, the adult day care provider shall, or in the case of temporary employees hired through or contracted for an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(A) Request a criminal background check for the person as provided in section 43.540, RSMo. Each adult day care provider must maintain in its records a copy of documents verifying that the background checks were requested and the nature of the response received for each such request:

1. The adult day care provider must ensure that any applicant or person hired or retained who discloses prior to the receipt of the criminal background check that he/she has been convicted of, pled guilty or *nolo contendere* to in this state or any other state, or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of Chapter 565, 566, or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo, will not have contact with participants;

2. Upon receipt of the criminal background check, the adult day care provider must ensure that if the criminal background check indicates that the person hired or retained by the adult day care provider has been convicted of, pled guilty or *nolo contendere* to in this state or any other state, or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of Chapter 565, 566, or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo, that person will not have contact with participants;

(B) Make an inquiry to the department whether the person is listed on the Employee Disqualification List as provided in section 660.315, RSMo; or

(C) If the person has registered with the department's Family Care Safety Registry, the adult day care provider may contact the Registry in order to meet the requirements of (11)(A) and (11)(B).

(12) All persons employed in an adult day care program shall be registered in the FCSR. Any person hired on or after the effective date of this rule, who is not listed in the Registry, shall complete a Worker Registration form (MO 580-2421), and submit it to the FCSR within fifteen (15) days of the beginning of employment pursuant to sections 210.900 through 210.936, RSMo and 19 CSR 30-80.010 through 19 CSR 30-80.040. The Worker Registration form may be downloaded from the Department of Health and Senior Services website (<http://www.dhss.mo.gov/>).

(13) The adult day care program or adult day care provider shall use its business judgement in determining whether to utilize any person as an employee, independent contractor, or volunteer who is listed on the EDL.

(14) Any person who may be refused or terminated from employment based on a criminal history described in section 660.317.6,

RSMo, may apply to the division for a good cause waiver under the provisions of 19 CSR 30-82.060.

(15) The adult day care provider may consider for employment any person who has been granted a good cause waiver in accordance with the provisions of section 660.317, RSMo and 19 CSR 30-82.060, in positions which have contact with participants. The adult day care provider shall be responsible for contacting the division to confirm the validity of an applicant's good cause waiver prior to hiring the applicant.

(16) At least one (1) staff person trained and certified in first aid and cardiopulmonary resuscitation (CPR) shall be on the premises and available at all times. First aid and CPR training shall be taken from the American Red Cross or from another comparable source. Certification in first aid shall be renewed every three (3) years and certification in CPR shall be renewed annually for each staff person assigned to and performing first aid and CPR responsibilities. The program director or designee shall be responsible for ensuring that first aid supplies recommended by the American Red Cross or other comparable source are readily available.

[(11)](17) All staff, including nondirect care, direct care and volunteers, shall be given an *[general]* orientation to the adult day care program, its policies, fire safety and emergency procedures prior to performing job responsibilities. The orientation shall be sufficient in depth to enable staff to perform their assigned job responsibilities and meet the individual needs of participants.

[(12)](18) At least quarterly, or as needed based on participants' needs, *[[in-service training shall be provided [at least quarterly]* to staff, as appropriate to their job function *[and]* or participant care needs. At a minimum, in-service training shall address:

- (A) Participant care needs, both general and individualized;
- (B) Participants' rights;
- (C) Program policies; and
- (D) Specialized care needs, such as Alzheimer's disease or related dementias, appropriate to the needs of participants, as follows:

1. For employees providing direct care to persons with Alzheimer's disease or related dementia, the training shall include—

- A. An overview of Alzheimer's disease and related dementia;
- B. Communicating with persons with dementia;
- C. Behavior management;
- D. Promoting independence in activities of daily living;

and

- E. Understanding and dealing with family issues; and

2. For employees who do not provide direct care for, but may have daily contact with, persons with Alzheimer's disease or related dementia, the training shall include—

- A. An overview of dementia; and
- B. Communicating with persons with dementia.

*AUTHORITY: sections 660.050, RSMo Supp. [1992] 2003 and 660.418, RSMo [Supp. 1986] 2000. This rule originally filed as 13 CSR 15-8.040. Original rule filed Oct. 15, 1984, effective Jan. 11, 1985. Moved to 19 CSR 30-90.040, effective Aug. 28, 2001. Amended: Filed Sept. 14, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: The cost of mandated criminal background checks is estimated at one thousand one hundred eighty-five dollars (\$1,185) per year for existing Adult Day Care Programs for FY05 and one*

*thousand two hundred fifteen dollars (\$1,215) for existing Adult Day Care Programs for FY06. For each additional year thereafter, add two (2) Adult Day Care Programs to determine the aggregate cost for the life of the rule.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin J.D., M.P.A., Deputy Department Director Senior Services and Regulation, Department of Health and Senior Services,, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	19 CSR 30-90.040 Staffing Requirements
Type of Rulemaking	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
79	Existing Adult Day Care Programs for FY05	FY05 - \$1,185.00
81	Existing Adult Day Care Programs for FY06 and annually thereafter	FY06 - \$1,215 per year add 2 Adult Day Care Programs per year to determine the aggregate cost over the life of the rule.

**III. WORKSHEET**

- Existing Adult Day Care (ADC) Programs  
79 ADC programs times an average of 3 CBC checks per year at \$5.00=\$1,185
- Adult Day Care Program in FY 06.  
81 ADC programs times an average of 3 CBC referrals at \$5.00=\$1,215.00.
- Annually thereafter – and two (2) Adult Day Care Programs per year.

**IV. ASSUMPTIONS**

- The number of ADC programs is increasing by an average of 2 per year according to DHSS records.
- A random telephone sample of ADC programs indicates that these programs average 3 new hires per year.
- The cost of a criminal background check has been \$5.00 per check for several years.
- In determining the aggregate private cost over the life of the rule add 3 percent each year to adjust for inflation.

**FISCAL NOTE  
PRIVATE COST**

5. DHSS staff have performed a takings analysis in accordance with Section 536.017 and determined that no taking of real property will occur as a result of this amended rule.
6. Any other costs not identified within this fiscal note are unforeseeable and unquantifiable.



**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 30—Division of Health Standards and Licensure  
Chapter 90—Adult Day Care Program Licensure**

**PROPOSED AMENDMENT**

**19 CSR 30-90.050 Program Policies and Participant Care Requirements and Rights.** The division proposes to amend the rule's short title, amend the Purpose statement, amend sections (2) through (5), (8), (9) and (10), delete sections (6) and (7), renumber accordingly, and add new sections (9) through (12).

*PURPOSE: This rule is being amended to update and clarify the program and participant care requirements of the adult day care program in accordance with the provisions of sections 660.403 through 660.420, RSMo and to transfer 19 CSR 30-90.030 participants' Rights and Program Policies, as new sections (9) through (12).*

*PURPOSE: This rule establishes the minimum requirements for operating an adult day care program; [and] providing care to participants; establishing and preserving certain rights of participants; and requiring adult day care providers to have written program policies.*

(2) Each **adult day care** provider shall have a written emergency medical plan *[which]* that assures **the following:**

(A) *[t/Transportation to a hospital or other type of facility providing emergency or urgent care/.];*

(B) A written agreement, signed by each participant or legal guardian, shall be on file in the facility granting permission to transport the participant in need of emergency care to the designated hospital or other type of facility~~/.];~~

(C) Notes in the participant's record shall be made immediately of any accident, injury or illness and **the** emergency procedures taken~~/.];~~

(D) Emergency telephone numbers for each participant shall be available to staff at all times~~/.]; and [At least one (1) staff member certified in first aid and cardiopulmonary resuscitation (CPR) shall be on the premises at all times that participants are present. Certification in first aid shall be renewed every three (3) years and certification in CPR shall be renewed annually. First-aid training shall be taken from the American Red Cross or from another comparable source.]~~

(E) At a minimum, those first-aid supplies, as recommended by the American Red Cross *[in "Standard First Aid and Personal Safety",]* or other comparable source, shall be readily available on-site.

(3) The **adult day care** provider shall require a medical assessment by the participant's physician or **that physician's designated agent** of the participant's medical condition to include activity needs and restrictions, dietary modifications, indicated therapies and medication as applicable prior to the first day of participation, signed by the physician or **that physician's designated agent** within five (5) working days of the first day of participation.

(4) The **adult day care** provider shall develop a written individual plan of care for each participant within five (5) contact days following the entry of the participant into the adult day care program. The plan shall be designed to maintain the participant at, or to restore to, optimal capability for self-care. The plan shall be based on a functional assessment and information obtained from the participant, participant's family, physician and the person or agency referring the participant. The plan shall address the participant's physical, social and psychological needs, goals and the means of *[goal accomplishment]* **accomplishing goals** to the degree that the program is designed and the staff *[is]* **are** qualified to meet these goals. The

plan shall identify *[names]* **the positions** of persons responsible for specific~~/.]~~ individualized activities provided for the participant that are not documented by the regularly scheduled plan of activities for the program. The plan of care shall identify the participant's regularly scheduled days for attendance, including arrival and departure times. The plan of care shall be revised as frequently as warranted by the participant's condition, but shall be reviewed at least every six (6) months and updated as necessary.

(5) The **program director**~~/.]~~ or *[a designated staff person,]* **program director's designee** shall maintain communication with participants and their families or other responsible persons to solve day-to-day problems which confront the participants. Referrals to other community resources should be made and services coordinated as needed.

*[(6) Participants who are responsible for taking their own medication at home shall be permitted and encouraged to continue to be responsible for taking their own medication during the hours spent in the center. If a participant is unable to self-administer medication, then the adult day care provider may assume responsibility in accordance with 13 CSR 15-8.050(10)(D) of this rule.*

*(7) There shall be a safe, effective system of handling and storing participants' medications.]*

*[(8)](6) The adult day care provider or program director or any other employee of the adult day care program shall report any suspected incidents of physical or mental abuse, neglect, exploitation or a combination of these, of its participants to the Elderly Abuse and Neglect Hotline (1-800-392-0210).*

*[(9)](7) The adult day care provider [shall] is required to offer at least the following services:*

(A) Activities of Daily Living. *[The adult day care program shall provide]* **This includes providing** assistance and training in walking, toileting, feeding, personal care and other activities of daily living in accordance with each participant's individual plan of care;

(B) Planned Group Activities. *[The adult day care program shall provide]* **This includes providing** planned activities during at least fifty percent (50%) of the time that the program is open for daily operation, with a maximum four (4) hours of planned activities required. Activities shall be suited to the needs and interests of participants and designed to stimulate interest, rekindle motivation and encourage physical exercise. Activities shall be conducted individually and in small and large groups. Planned activities include meals, rest periods, exercise, recreation and social activities. Physical exercise shall be designed in relation to each individual's needs, impairments and abilities and shall be alternated with rest periods or quiet activities~~/. In an associated program some, but not all, activities may be conducted cooperatively with the residents or participants of the other program];~~

(C) Food Service. *[The adult day care program shall]* **This includes [assure/ assuring** the availability of meals and supplemental snacks in accordance with each participant's individual plan of care. Meals served by the **adult day care** provider shall provide at least one-third (1/3) of the recommended dietary allowance of the National Research Council. Supplemental snacks shall consist of nourishing food and beverages. Food may be prepared, stored, served or any combination of these, on-site *[if]* **in compliance with** the requirements of the local health department or applicable rules established by the *[Missouri D]department [of Health] under the provisions of [19 CSR 20-1.010/]* *are met]*. Food prepared away from the site shall be prepared in a **food preparation** facility which meets the requirements of the local health department or applicable rules established by the *[Missouri D]department [of Health] under [19 CSR 20-1.010/]*. The **adult day care** provider shall arrange

for special diets and other diet modifications as ordered by a physician **or the physician's designated agent**. Such *[D]*diets shall be served as ordered by the participant's physician *[and]* **or the physician's designated agent with food preparation and service** *[shall]* being reviewed by a qualified dietitian, physician or nurse at least every six (6) months. Modified diets shall be in effect for the specified number of days indicated in the physician's order. If no time is specified, the period may not exceed one (1) calendar year, **at which time** *[when]* another order from the physician shall be obtained; and

(D) Observation. The health, functional and psychosocial status of each participant shall be observed and documented in the participant's record at least monthly by the adult day care program director or other designated professional staff **and the plan of care modified if necessary**.

*[(10)](8)* The adult day care provider may offer the following services:

(A) Transportation. If transportation services are offered, directly or **through a contract***[ed for]*, they shall meet the requirements of *[13 CSR 15-6.165/19 CSR 15-7.040]*;

(B) Counseling Services. If counseling services are offered, they shall be provided by qualified professional personnel;

(C) Rehabilitation Services. If rehabilitation services are offered, they shall be prescribed by a physician and performed by qualified therapists. Orders for the various therapies and treatments shall be in effect for the specified number of days indicated by the physician's written order. If no time period is specified, then the time period shall not exceed sixty (60) days and a new order by the physician must be obtained. Therapy services provided shall be summarized in the participant's record and progress noted at least monthly by the therapist;

(D) Medical Services. If medical services are offered, a licensed nurse shall be available at all times that the program is in operation. Medical services shall be provided in accordance with the particular needs of each participant. The licensed nurse shall be the only individual authorized to receive, control and manage the medication and drug program. The licensed nurse shall be responsible for the following:

1. A safe, effective system of identifying, handling and storing each participant's medications.

2. A system for administering and storing medications that is reviewed not less than every ninety (90) days by a licensed nurse.

*[1.3]*. Administration of medications and treatments, including the following requirements:

A. Participants who are responsible for taking their own medication at home shall be permitted and encouraged to continue to be responsible for taking their own medication during the hours spent in the program. If a participant is unable to self-administer medication, then the adult day care provider shall assume responsibility in accordance with the applicable provisions of this rule. If a participant refuses medication, this refusal shall be documented in the participant's record and the participant and their primary caregiver informed of the possible consequences of not receiving the medication;

*[A./B.]* Medications or treatments may not be administered without an order signed by a licensed physician. Physician's phone orders may be taken only by a licensed nurse. Phone orders shall be written into the participant's record by the licensed nurse receiving them and shall be signed by that person. The physician shall sign and date the order within five (5) working days after giving the phone order*./.*;

*[B./C.]* Orders concerning treatments and medications shall be in effect for a specified number of days as indicated by the physician. If not specified, the period may not exceed sixty (60) days;

*[C./D.]* The licensed nurse shall communicate as indicated with the participant's physician to report observed changes in health status, including reaction to medications and treatments. If an

adverse reaction to medications, treatments or diet is observed, **the licensed nurse shall promptly notify** the participant's physician *[shall be called immediately]*. If contact cannot be made with the personal physician, emergency medical procedures shall be followed; and

*[D./E.]* All medications, including over-the-counter medications, shall be packaged and labeled in accordance with applicable professional pharmacy standards, state and federal drug laws and regulations *[and the United States Pharmacopoeia (USP)]*. *[/]*Labeling shall include accessory and cautionary instructions as well as the expiration date, when applicable and the name of the medication as specified in the physician's order. Over-the-counter medications for individual participants shall be labeled with at least the participant's name; and

*[2.4.]* Medication storage *[and records.]* that meets the following requirements:

A. The **adult day care** provider shall have a safe, secure, locked place*[d]* for storing medications or drugs and make them available to the participant according to the instructions of his*[/]* or her personal physician.

B. *[Schedule II drugs, (Chapter 197, RSMo and 19 CSR 30-1.010) shall be kept in a locked box]* **Controlled substances shall be locked separately from non-controlled substance medications;**

C. Medications requiring refrigeration shall be kept refrigerated in a locked room or in a separate locked refrigerator or in a locked box within the refrigerator or in a refrigerator in a locked room*./.*; and

D. Nonprescription medicines may be retained in the facility for administration as ordered by the participant's physician.

*[The system for administering and storing medications shall be reviewed not less than every three (3) months by a licensed nurse.]*

5. Medication records that meet the following requirements:

A. A written record of medications, **including over-the-counter medications**, administered shall be maintained*./.*;

B. Records shall be kept of *[all Schedule II drugs.]* the receipt and disposition of all controlled substances, separate from other records for two (2) years;

C. Inventories of controlled substances shall be reconciled at the time of the medication system review and as needed to ensure accountability;

D. Receipt records of controlled substances shall include the date, source of supply, resident name, prescription number, medication name and strength, quantity and signatures of the supplier and the receiver;

E. Administration records of controlled substances shall include the date, time, resident name, medication name, dose administered and signature of the person administering;

F. Documentation of waste of controlled substances at the time of administration shall include the reason for the waste and the signature of an authorized employee witness; and

G. All variances of controlled substance records shall be documented and reported to the director for review and investigation. All losses of controlled substances shall be reported to the appropriate authorities.

(9) Each participant of the adult day care program shall be assured of the following rights:

(A) To be treated as an adult, with respect and dignity regardless of race, color, sex or creed;

(B) To participate in a program of services and activities which promote positive attitudes regarding one's usefulness and capabilities;

(C) To participate in a program of services designed to encourage learning, growth and awareness of constructive ways to develop one's interests and talents;

(D) To maintain one's independence to the extent that conditions and circumstances permit, and to be involved in a program of services designed to promote personal independence;

(E) To be encouraged to attain self-determination within the adult day care setting, including the opportunity to participate in developing one's plan for services;

(F) To decide whether or not to participate in any given activity and to be involved in the extent possible in program planning and operation;

(G) To be cared for in an atmosphere of sincere interest and concern in which needed support and services are provided;

(H) To have access to a telephone to make or receive calls, unless necessary restrictions are indicated in the individual's care plan;

(I) To have privacy and confidentiality;

(J) To be free of mental or physical abuse;

(K) To be free to choose whether or not to perform services for the program;

(L) To be free of restraint, unless under physician's order as indicated in the individual's care plan; and

(M) To be free of interference, coercion, discrimination or reprisal.

(10) Participants and their families shall be advised of participants' rights and program policies upon admission to the adult day care program.

(11) Participants' rights shall be posted in a conspicuous location in the adult day care facility.

(12) The adult day care provider shall have a written program description, copies of which are available to the division, participants, families and other interested agencies and individuals. The written program description shall contain at least the following:

(A) Administrative organization, including role of the advisory committee if applicable;

(B) Maximum number of participants that can be served;

(C) Types of participants that shall and shall not be admitted;

(D) Days of the week and hours of operation;

(E) Services available to participants and families;

(F) Procedures and requirements for admission;

(G) Emergency arrangements for participants;

(H) Criteria and procedure for discontinuing service to a participant;

(I) Participant and family procedures for resolving grievances;

(J) Confidentiality of participant information and records; and

(K) A copy of the Alzheimer's SCS form (MO FORM 886-3548) (if applicable) available at [http://www.oa.state.mo.us/gs/form/fm\\_indiv.htm](http://www.oa.state.mo.us/gs/form/fm_indiv.htm)

*AUTHORITY:* sections 660.050, RSMo Supp. [1992] 2003 and 660.418, RSMo [1986] 2000. This rule originally filed as 13 CSR 15-8.050. Moved to 19 CSR 30-90.050, effective Aug. 28, 2001. Original rule filed Oct. 15, 1984, effective Jan. 11, 1985. Amended: Filed Sept. 14, 2004.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin J.D., M.P.A., Deputy Director Senior Services and Regulation, Department of Health and Senior Services, PO Box 570,

Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

## Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

### Division 30—Division of Health Standards and Licensure

#### Chapter 90—Adult Day Care Program Licensure

#### PROPOSED AMENDMENT

**19 CSR 30-90.060 Record Keeping Requirements.** The division proposes to amend sections (1) through (5).

*PURPOSE:* This amendment is to update and include additions to the record keeping requirements for administrative, participant and program policies of the adult day care program in accordance with the provisions of sections 660.400 through 660.420, RSMo 2000.

(1) The adult day care provider shall maintain administrative records that include at least:

(A) Written personnel policies which address, at a minimum, the staffing requirements found in 19 CSR 30-90.040;

(C) Individual personnel records for both paid staff and volunteer staff who are counted in the staffing ratio that include the following:

1. Position title and written job description/s of job/ of the work tasks, responsibilities and qualifications of the job duties to be performed by each person;

2. Name, address, home telephone number, date of birth and Social Security number;

3. Licensure, certification or other [D]documentation of professional qualifications; such as copies of license, certification, as applicable;

4. Educational background;

5. Employment history, [and] documentation of references checked prior to employment including the results of the criminal background checks and, if applicable, a copy of any good cause waiver granted by the department;

6. Documentation of Employee Disqualification List (EDL) or Family Care Safety Registry checks;

[6.]7. Annual evaluation of work performance;

[7.]8. Documentation of orientation and in-service training received;

[8.]9. Record of dates and hours worked for at least the previous calendar year;

[9.]10. Copies of contracts with consultants, as applicable;

[10.]11. Documentation[, as applicable,] of any communicable disease and [written] a physician's or the physician's designated agent's written release [to] stating that the employee or volunteer may return to work; and

[11.]12. Documentation of any current certification in first aid and cardiopulmonary resuscitation [(CPR), as applicable];

(D) Fiscal records that include documentation of program income and expenditures in accordance with generally accepted accounting procedures. However, either cash basis, accrual basis or modified accrual basis may be used as appropriate for the adult day care provider's business entity and tax status;

(E) Records of orientation and in-service training provided to staff and volunteers; and

(F) [Current facility i]Inspection reports, for the past three (3) years from the local health authority, local fire authority, department, [Department of Health] or [D]division [of Aging, as applicable, including catered services] and any state or local inspecting authority.



(2) The **adult day care** provider shall maintain individual participant records that include at least:

(A) Identifying information consisting of the participant's name; address; home telephone number; sex; date of birth; legal guardian, if applicable; the name and telephone number of the person to be notified in case of emergency **and at least one (1) alternate**; next of kin; travel directions between the home and program location and transportation arrangements, if applicable;

(E) Documentation of **any prescribed or** modified diet *[as/]* provided*[, if prescribed]*;

(3) The **adult day care** provider shall maintain program records that include *[at least/]*, **at a minimum, copies of:**

(A) Current written program description **in accordance with 19 CSR 30-90.050;**

(B) **Current list of participants' rights;**

*[(B)](C)* Schedule of daily group activities planned and record of activities actually conducted *[shall be maintained/]* for the previous four (4) calendar months;

*[(C)](D)* Weekly menus of meals planned and records of actual meals served *[shall be maintained/]* for the previous four (4) calendar months;

*[(D)](E)* Emergency medical plan; and

*[(E)](F)* Fire safety plan.

(4) Records or any information regarding adult day care program participants shall be confidential and no information shall be released without a written release of information signed by the participant or legal guardian except that records shall be available to the division for **investigation of any complaint**, program inspection, monitoring or technical assistance purposes.

(5) Records shall be maintained for no less than five (5) years unless otherwise specified in this rule. Current records shall be kept on-site within the adult day care program. Inactive records may be maintained at another central location but in no case outside the state of Missouri. Any record requested by **the department or** the division shall be **made** available within twenty-four (24) hours of the request.

*AUTHORITY: sections 660.050, RSMo Supp. [1992] 2003 and 660.418, RSMo [1986] 2000. This rule originally filed as 13 CSR 15-8.060. Original rule filed Oct. 15, 1984, effective Jan. 11, 1985. Moved to 19 CSR 30-90.060, effective Aug. 28, 2001. Amended: Filed Sept. 14, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, J.D., M.P.A., Deputy Director Senior Services and Regulation, Department of Health and Senior Services PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 30—Division of Health Standards and  
Licensure  
Chapter 90—Adult Day Care Program**

**PROPOSED AMENDMENT**

**19 CSR 30-90.070 Fire Safety and Facility Physical Requirements.**

The division proposes to amend the rule's short title, add a new section (1), amend sections (1) through (5) and (7) through (20) by lettering them (A) through (S), delete section (6) and transfer the provisions of 19 CSR 30-90.080 Fire Safety Requirements and include it as new section (2), subsections (A) through (F).

*PURPOSE: The purpose of this amendment is to update the existing rule on adult day care facility physical requirements and transfer and update the fire safety requirements from 19 CSR 30-90.080. This proposed amendment updates the space requirements and Life Safety Code requirements for buildings and facilities in which adult day care programs are located; updates the Life Safety Code references and requirements regarding fire safety; adds fire drill and emergency preparedness procedures; and makes language and grammatical changes for clarification.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.*

**(1) Facility Physical Requirements.**

*[(1)](A)* The adult day care program *[facility]* building shall be safe and suitable for participants. **The building in which the program is located shall be clean, of sound construction and maintained in good repair.**

*[(2)](B)* Minimum space requirements shall be eighty (80) square feet per participant, for up to twenty (20) participants and an additional fifty (50) square feet per each additional participant. Space requirements do not include office space, bathrooms, storage, examining rooms or dining rooms, unless the latter is also used for activities. For associated adult day care programs, the required space shall be designated and in excess of the particular facility's required licensed space for providing long-term care or medical care. **For adult day health care programs, the required space, regardless of the number of participants, shall not be less than three hundred twenty (320) square feet of space.**

*[(3)](C)* The facility shall have a room **of sufficient size to meet the needs of the participants based on minimum standards** where all of the participants can gather as well as rooms or divided areas for small group activities, including a quiet area for rest*./*, **which contains at least one (1) bed for temporary use by participants when needed.**

*[(4)](D)* Furniture shall be of a size and design so that it is easily used by persons with limited agility. It shall be sturdy and secure so that it cannot easily tip when used for support while walking or sitting. At a minimum, the following shall be provided:

*[(A)]1.* One (1) chair for each participant and staff person;

*[(B)]2.* Table space adequate for all participants to be served a meal at a table at the same time;

*[(C)]3.* Reclining lounge chairs or other sturdy comfortable furniture, the number to be determined by the needs of the participants; and

*[(D)]4.* **At least /O/one (1) bed with adequate privacy [and/]** in a quiet area to be available for temporary use *[of/]* by participants as needed.

*[(5)](E)* Equipment and supplies shall be adequate to meet the needs of participants including items necessary for *[direct/]* **personal** care and *[items/]* **materials** to encourage *[active participation and group interaction./]* **activities among participants. The**

activity materials shall be geared to the interests and backgrounds of the participants.

*[(6)]* The building in which the program is located shall be of sound construction and maintained in good repair

*[(7)](F)* Ventilation[,] by natural or mechanical means[,] shall be provided. All screen doors shall be equipped with self-closing devices and shall fit tightly. Doors and windows and other openings to the outside shall be screened when necessary[,] to prevent entrance of insects and vermin.

*[(8)](G)* The heating system for adult day care facilities initially licensed prior to December 1, 2004 shall be in compliance with the *[National Fire Protection Code, published by the National Fire Protection Association (NFPA)]* applicable provisions of the 2000 Life Safety Code for existing occupancies (NFPA 101), incorporated by reference in this rule, as published by the National Fire Protection Agency, 1 Batterymarch Park, PO Box 9101, Quincy, MA 02269-9101 and all state and local codes. This rule does not incorporate any subsequent amendments or additions. Heating systems for adult day care facilities initially licensed on or after December 1, 2004 shall be in compliance with the applicable provisions of the 2000 Life Safety Code for New Day Care Occupancies, incorporated by reference in this rule, as published by the National Fire Protection Agency, 1 Batterymarch Park, PO Box 9101, Quincy, MA 02269-9101 and all state and local codes. This rule does not incorporate any subsequent amendments or additions. Exposed heating pipes, hot water pipes or radiators in rooms and areas used by participants shall be covered or protected, and insulated when appropriate. Portable space heaters shall not be used. Room temperatures shall be maintained between sixty-eight degrees Fahrenheit (68° F) and eighty-five degrees Fahrenheit (85° F) in all seasons. *[and t]*The reasonable comfort needs of individual participants shall be met.

*[(9)](H)* Illumination shall be adequate in all areas and commensurate with the type of activity. Glare shall be kept at a minimum by providing *[shades]* window coverings at all windows exposed to direct sunlight and using shaded light fixtures *[shall have shades]*.

*[(10)](I)* All plumbing and plumbing fixtures shall conform to applicable local codes. There shall be no cross-connection between the potable water supply and any source of pollution through which the potable water supply might become contaminated.

*[(11)](J)* An adequate supply of water, the source of which is approved by the state water control authority, under sufficient pressure to properly serve the facility shall be provided. The potable water system shall be installed to preclude the possibility of back-flow.

*[(12)](K)* Drinking water shall be easily accessible to the participants and provided by either an angle jet drinking fountain with mouth guard or by a running water supply with individual service drinking cups. Drinking facilities *[may]* shall not be located in a toilet room.

*[(13)](L)* At least one (1) toilet and *[washbowl]* handwashing sink shall be provided for each ten (10) participants or any additional fraction thereof. The *[washbowl]* handwashing sink shall be in close proximity to each toilet and shall have hot and cold running water. *[Hot]* The water temperature shall *[not exceed one hundred and ten degrees Fahrenheit (110° F)]* be maintained between one hundred degrees (100°) degrees and one hundred fifteen (115°) degrees. The toilet room shall be within easy access of the activity areas and afford the participants *[shall have the right to]* privacy. Each toilet room shall be equipped with approved natural or mechanical ventilation. All toilets shall have grab-rails. Individual paper towels, a trash receptacle, soap and toilet paper shall be provided at all times and shall be within reach of the participants.

*[(14)](M)* If persons using wheelchairs~~[-bound]~~ or persons with other physical~~ly~~ handicapped persons disabilities are accepted, or the building in which the facility is located is otherwise required to comply with the Americans with Disabilities Act

(ADA), the facility shall have ramps or other means of accessibility to the adult day care facility for *[handicapped]* persons with disabilities, and shall meet the standards of the *[American National Standards Institute publication (ANSI), A117.1, Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped]*. ADA Standards for Accessible Design which are available at [www.usdoj.gov/crt/ada/adastd94.pdf](http://www.usdoj.gov/crt/ada/adastd94.pdf)

*[(15)](N)* Stairways and hallways shall be kept free of obstructions and shall be well lighted. All stairways and ramps shall have nonslip surface or treads. All inside and outside stairs and ramps shall have handrails.

*[(16)](O)* All rugs and floor coverings shall be secured to the floor. Throw rugs shall not be used. All equipment and furnishings shall be safe and maintained in good condition.

*[(17)](P)* *[Sufficient housekeeping and maintenance service shall be provided]* The adult day care program shall provide necessary services to maintain the *[facility]* building or portion of the building in which the adult day care program is located in good repair and in a safe, clean, orderly~~ly~~, attractive and sanitary manner.

*[(18)](Q)* Drugs, cleaning agents, pesticides and poisonous products shall be stored apart from food, out of the reach of the participants, and shall be used in a manner which assures the safety of participants and staff.

*[(19)](R)* Wastebaskets and trash containers shall be made of noncombustible or fire-resistant material. Garbage and other waste shall be stored and disposed of in an *[approved]* appropriate manner.

*[(20)](S)* The facility shall be maintained free of insects and rodents. Control measures shall be *[provided]* implemented to prevent rodent and insect infestation.

## (2) Fire Safety Requirements.

(A) Adult day care programs shall obtain annual written approval from the appropriate local fire safety officials, certifying that the facility complies with local fire codes. If there are no applicable codes, or if the department or division determines that such codes are not adequate, the department or division shall determine the adequacy of the means of egress and other measures for life safety from fire in accordance with the provisions of the Life Safety Code (NFPA 101), in order to ensure the safety of frail persons or persons with disabilities. All adult day care programs initially licensed prior to December 1, 2004 shall comply with the provisions of the 2000 Life Safety Code for existing occupancies (NFPA 101), incorporated by reference in this rule. Adult day care programs licensed on or after December 1, 2004 shall comply with the provisions of the 2000 Life Safety Code for New Day Care Occupancies (NFPA 101).

(B) The facility shall have a minimum of two (2) exits remote from each other. Exits shall be clearly marked with exit signs and shall provide egress at ground level.

(C) Each adult day care provider shall locate, install and maintain in operable condition an adequate number of smoke detectors and fire extinguishers of the appropriate type as determined in consultation with the local fire authorities or the division. Fire extinguishers shall comply with the requirements of the 1998 Standard for Portable Fire Extinguishers (NFPA 10), incorporated by reference in this rule.

(D) A written plan for assuring the safety of participants, staff and volunteers in case of fire or other disaster shall be developed in consultation with state or local fire authorities and shall include, at a minimum, the following:

1. A written assessment of potential fire or safety hazards present on the premises and actions and procedures to follow to minimize potential danger;

2. A written schedule for periodic checks for battery strength of smoke detectors and adequate pressure of fire extinguishers;



3. A written training plan and schedule for staff and volunteers on safety responsibilities and actions to be taken if an emergency situation occurs and documentation of the type of training provided; and

4. A written plan for conducting fire drills and other emergency preparedness procedures, including staff responsibilities and assignments to ensure orderly evacuations and participants' safety.

(E) Fire drills shall be coordinated with local fire safety authorities and conducted at least one (1) time per month and with sufficient frequency to familiarize staff and participants with the proper evacuation procedures. Drills may be held at unexpected times and under varying conditions to simulate the unusual conditions that occur in the case of fire. The actual evacuation of participants and staff is not necessary providing everyone involved is able to carry out actual evacuation procedures if required. Fire drills shall include suitable procedures to ensure that all affected persons actually participate in the drill exercises.

(F) The program director or other staff qualified to exercise leadership shall be responsible for planning and conducting fire drills and other emergency preparedness procedures. The program director shall ensure that staff are assigned to assist participants with disabilities or other special needs to ensure the health and safety of participants when implementing the fire and emergency preparedness procedures in evacuating the facility, or complying with written plan procedures.

*AUTHORITY: sections 660.050[, RSMo Supp. 1992] and 660.418, RSMo [1986] 2000. This rule originally filed as 13 CSR 15-8.070. Original rule filed Oct. 15, 1984, effective Jan. 11, 1985. Moved to 19 CSR 30-90.070, effective Aug. 28, 2001. Amended: Filed Sept. 14, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: For existing adult day care centers, the cost to replace trash receptacles with those made of noncombustible or fire-resistant material is estimated to be a one (1)-time cost of one thousand five hundred eighty dollars (\$1,580) in fiscal year 2005 and a cost of forty dollars (\$40) annually thereafter as new Adult Day Care Programs are added each year. The cost to build a new adult day care facility that meets the 2000 **Life Safety Code** should add an additional twenty dollars (\$20) per square foot to the building costs in fiscal year 2005. Since this requirement only applies to adult day care facilities built in areas which lack local codes, it is anticipated that no more than one (1) such facility may be built in the next five (5) years with an anticipated cost increase of forty-four thousand dollars (\$44,000) plus a three percent (3%) annual inflationary factor and one (1) additional facility every five (5) years thereafter.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, J.D., M.P.A., Deputy Director Senior Services and Regulation, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	19 CSR 30-90.070 Fire Safety and Facility Physical Requirements Subsection (I) (R)
Type of Rulemaking	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<b>Non-Combustible Trash Receptacles</b> 79	Existing Adult Day Care Programs	FY-05 \$1,1580.00
2	New Adult Day Care Programs	FY-06 \$40.00 per year. Add 2 Adult Day Care Programs per year to determine the aggregate cost over the life of the rule
<b>2000 Life Safety Code Requirement</b> 1 every 5 years	New Adult Day Care Programs	FY 05 through FY 09 \$44,000. Add 1 Adult Day Care Program every 5 years with 3 per cent cost increase annually for inflation thereafter to determine the aggregate cost over the life of the rule

**III. WORKSHEET**

**Non-Combustible Trash Receptacles**

- Existing Adult Day Care (ADC) Programs  
79 ADC programs times 2 non-combustible trash receptacles at \$10.00 each = \$1,580.00.
- New Adult Day Care Programs.  
2 new programs times 2 non-combustible trash receptacles at \$10.00 each-\$40.00.
- Annually Thereafter-add two (2) Adult Day Care Programs per year

**2000 Life Safety Code Requirement**

- New Adult Day Care Programs

**FISCAL NOTE  
PRIVATE COST**

- 1 new ADC program every 5 years with 22 participants times 100 square feet per resident times \$20.00 per square foot increased construction costs = \$44,000 plus 3 per cent annual adjustment for inflation..
- Annually Thereafter --add one (1) Adult Day Care Program every five (5) years.

**IV. ASSUMPTIONS****Non-Combustible Trash Receptacles**

1. The estimated cost of non-combustible trash receptacles is \$10.00 each.
2. DHSS record shows ADC Programs are increasing at an average of 2 per year.
3. DHSS staff estimate that an average of 2 trash receptacles per program is necessary.
4. In determining the aggregate private cost over the life of the rule add 3 percent each year to adjust for inflation.
5. DHSS staff have performed a takings analysis in accordance with Section 536.017 and determined that no taking of real property will occur as a result of this amended rule.
6. Any other costs not identified within this fiscal note are unforeseeable and unquantifiable.

**2000 Life Safety Code Requirement**

1. Under the proposed amendment, the 2000 Life Safety Code Requirement for new programs would only apply to new programs that are built in areas which lack applicable or adequate codes. DHSS Life Safety Code specialists estimate that perhaps one (1) such program may be built in the next five (5) years.
2. DHSS staff estimate 22 participants for a newly built program building.
3. DHSS staff estimate a minimum of 100 square feet per resident in a new building for an ADC program.
4. DHSS engineers estimate that compliance with the 2000 Life Safety Code for New Day Care Occupancies will add an additional \$20.00 per square foot to the construction of a new ADC program building as opposed to the cost of a program building not built to a local code.
5. In determining the aggregate private cost over the life of the rule, add 3 per cent each year to adjust for inflation.
6. DHSS have performed a takings analysis in accordance with Section 536.017 and determined that no taking of real property will occur as a result of this amended rule.
7. Any other costs not identified within this fiscal note are unforeseeable and unquantifiable

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 30—Division of Health Standards and Licensure  
Chapter 90—Adult Day Care Program Licensure**

**PROPOSED RESCISSION**

**19 CSR 30-90.080 Fire Safety Requirements.** This rule established fire safety requirements for adult day care programs and facilities.

*PURPOSE:* This rule is being rescinded to transfer the provisions of this rule to 19 CSR 30-90.070 Fire Safety and Facility Physical Requirements.

*AUTHORITY:* sections 660.050, RSMo Supp. 1992 and 660.418, RSMo 1986. This rule originally filed as 13 CSR 15-8.080. Original rule filed Oct. 15, 1984, effective Jan. 11, 1985. Moved to 19 CSR 30-90.080, effective Aug. 28, 2001. Rescinded: Filed Sept. 14, 2004.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with David S. Durbin, J.D., M.P.A., Deputy Director Senior Services and Regulation, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE  
Division 700—Licensing  
Chapter 6—Bail Bond Agents and Surety Recovery Agents**

**PROPOSED AMENDMENT**

**20 CSR 700-6.100 Fees and Renewals—Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents.** The department is amending the title of the chapter and the title of the rule, the Purpose and sections (1) and (2).

*PURPOSE:* This rule is being amended to implement the legislative changes enacted by Senate Bill 1122 in the 2004 legislative session of the 92nd General Assembly and to update and establish the licensing fees and requirements for bail bond and surety recovery agents.

*PURPOSE:* This rule sets the license and renewal fees for bail bond [and], general bail bond agents and surety recovery agents under sections 374.700–[374.775] 374.789, RSMo Supp. 2004.

(1) Each application for license as a general bail bond agent, [or] bail bond agent or surety recovery agent must be accompanied by a licensing fee of [twenty-five] one hundred fifty dollars [(\$25)] (\$150) for the [one (1)] two (2)-year license. The fee for renewal of the license shall also be [twenty-five] one hundred fifty dollars [(\$25)] (\$150) for a biennial license.

(2) If a general bail bond agent, [or] bail bond agent or surety recovery agent fails to file for renewal of his/her license on or before the expiration date, the Department of Insurance will issue a renewal of the license upon payment of a late renewal fee of twenty-five dollars (\$25) per month or fraction of a month after the renewal deadline. In

the alternative to payment of a late renewal fee, the former licensee may apply for a new license except that the former licensee must comply with all provisions of section [374.725/374.710 and 374.784, RSMo regarding issuance of a new license.

*AUTHORITY:* sections 374.045, RSMo [Supp. 1993] 2000 and 374.705, 374.710, 374.730, 374.783, 374.784 and 374.786, RSMo Supp. 2004. Original rule filed March 14, 1994, effective Sept. 30, 1994. Amended: Filed Sept. 14, 2004.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will cost private entities three hundred thousand dollars (\$300,000) biennially in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* A public hearing will be held on this proposed amendment at 10:00 a.m. on November 18, 2004. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on November 18, 2004. Written statements shall be sent to Kimberly A. Grinston, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

*SPECIAL NEEDS:* If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.



## FISCAL NOTE PRIVATE COST

### I. RULE NUMBER

Rule Number and Name:	20 CSR 700-6.100 Fees and Renewals- Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents
Type of Rulemaking:	Proposed Rule

### II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
950	Bail Bond Licensees (Bail bond agents, General bail bond agents and Bail Bond Corporations)  (License application and license renewal fees @ \$150 biennially)	\$ 142,500 biennially
1,050	Surety Recovery Agents  (License application and license renewal fees @ \$ 150 per year)	\$ 157,500 biennially
	<b>Estimated Biennial Cost of Compliance for the Life of the Rule</b>	<b>\$300,000</b>

\* The aggregate cost to licensed insurance companies includes the aggregate cost to all licensees.

### III. WORKSHEET

See table above.

### IV. ASSUMPTIONS

- Based on a review of the Department's licensing records, the Department statistically issues or renews a total of approximately 950 bail bond agents, general bail bond agents and general bail bond corporations licenses biennially. The Department assumes this number will remain consistent over the life of this rule and therefore calculated the fiscal impact on bail bond licensees based on an estimated total of 950 bail bond license applications and renewals biennially.
- Surety recovery agents are not currently licensed in the state of Missouri rendering a precise estimate of potential surety recovery licensees impracticable. Based on discussions with representatives of the Missouri Bail Bond Association, the National Professional Bounty Hunting School and representatives from the surety recovery

industry in Missouri, it is estimated that an aggregate of 1,050 surety recovery agents would apply for or renew a surety recovery agent license biennially. This calculation assumes approximately one licensed surety recovery agent per current bail bond licensee. The number of estimated surety recovery licensees does not include licensed bail bond agents who are authorized to perform surety recovery activities without a separate surety recovery license. The Department anticipates the number of assumed surety recovery licensees will remain consistent over the life of this rule.

- It is anticipated the estimated total cost will recur for the life of the rule.

**Title 20—DEPARTMENT OF INSURANCE**  
**Division 700—Licensing**  
**Chapter 6—Bail Bond Agents and Surety Recovery Agents**

**PROPOSED RULE**

**20 CSR 700-6.150 Initial Basic Training for Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents**

*PURPOSE: This rule outlines initial basic training requirements for bail bond agents, general bail bond agents, and surety recovery agents under sections 374.710 and 374.784, RSMo Supp. 2004.*

(1) Initial Basic Training. Except as otherwise provided by law, before an individual may be licensed as a bail bond agent, general bail bond agent, or surety recovery agent s/he must first fulfill the initial basic training requirements set forth in sections 374.710 and 374.784, RSMo. The initial basic training must be completed within a twelve (12)-month period prior to submitting an application. The basic course of training shall consist of a minimum of twenty-four (24) hours, taught by personnel with qualifications approved by the director and shall include instruction in all of the following subject areas:

(A) Areas of Law.

1. Statute: Chapter 374, sections 374.695 to 374.789, RSMo;
2. Statute: Chapter 544, RSMo—Arrest, Examination, Commitment and Bail;
3. Applicable federal and state constitutional and case law, including, but not limited to:
  - A. Warrants/warrant procedures.
  - B. Incarceration, surrender and release.
  - C. Extraditions.
  - D. Use of force.
  - E. Custody and transportation.

(B) Bail Bond Training.

1. Licensing.
  - A. Test procedures.
  - B. Regulation.
  - C. Terminology.
2. Documentation.
  - A. Power of Attorney.
  - B. Contracts: elements, classifications.
  - C. Certifications.
  - D. Revocation of bail.
  - E. Incarceration, surrender and release.
3. Missouri Supreme Court Rules: 33.17, 33.18, 33.19.
4. Rights of a bondsman.
  - A. History.
  - B. Powers.
  - C. Principles.
  - D. Practices.
5. Business etiquette.
  - A. Contracts.
  - B. Appearance.
  - C. Ethics.

(C) Surety Recovery Training.

1. Licensing.
  - A. Test procedures.
  - B. Regulation.
  - C. Terminology.
2. Documentation.
  - A. Contracts.
  - B. Authority.
    - (I) Warrants.
    - (II) Certifications.
    - (III) Extradition.
    - (IV) Incarceration and surrender.

3. Apprehension procedures.
  - A. Authority notification.
  - B. Techniques.
    - (I) Verification.
    - (II) Proper use of force.
    - (III) Self-identification.
    - (IV) Custody and transportation.
4. Legal liability.

(2) Authorized Educational Providers.

(A) Pending approval by the department upon submission of an application for course provider, the director shall grant authority to public or private institutions, educational organizations, associations or individuals to provide the required initial basic training. All course provider applications must include a course outline and list of instructors, as provided herein. Applicants for course provider must have demonstrated three (3) years prior competent experience in the areas of instruction listed in section (1) of this rule.

(B) Each course provider and each course must be approved by the director. Application forms for this approval are available on the department's website at [www.insurance.mo.gov](http://www.insurance.mo.gov) and at the Department of Insurance. In order for the director to review applications for approval, the following must be submitted:

1. The provider's application must include each instructor's qualifications and a listing of dates and times of all scheduled courses. Upon approval of the course, notification will be returned to the provider indicating the course number assigned by the Department of Insurance. Once approved, subsequent courses with a schedule of dates and times the course will be offered must be submitted thirty (30) days prior to holding the course.

2. A course outline prepared by each instructor which demonstrates the topics to be taught and the time that will be devoted to each topic. Course outlines shall indicate a sufficient amount of time for each subject area and must include all subjects as listed in this section.

3. An application fee of one hundred dollars (\$100) must be submitted with the provider and course application. Personal checks are not accepted.

4. The cost per student for the twenty-four (24)-hour initial basic training which shall not exceed two hundred dollars (\$200).

(C) All approved course providers shall complete a class roster in the form approved by the department indicating all course attendees for each day classes are held which shall be sent to the Missouri Department of Insurance within thirty (30) days of completion of the course.

(D) Course providers shall present each attendee with a Certificate of Completion of Initial Basic Training upon the attendee's successful completion of the course, in the form approved by the department.

(E) The Missouri Department of Insurance may audit the approved courses at any time.

(F) Self-study courses in any format, or electronic or telephone conference courses shall not be eligible for approval for initial basic training.

(G) Class roster and Certificate of Completion of Initial Basic Training forms are available on the department's website at [www.insurance.mo.gov](http://www.insurance.mo.gov) and at the Department of Insurance.

*AUTHORITY: sections 374.045, RSMo 2000 and 374.705, 374.710 and 374.784, RSMo Supp. 2004. Original rule filed Sept. 14, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities one thousand dollars (\$1,000) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* A public hearing will be held on this proposed rule at 10:00 a.m. on November 18, 2004. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on November 18, 2004. Written statements shall be sent to Kimberly A. Grinston, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

*SPECIAL NEEDS:* If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.



**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	20 CSR 700-6.150 Initial Basic Training for Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
10	Initial Basic Training for Bail Bond, General Bail Bond and Surety Recovery Agents  (10 providers @ \$ 100 registration fee each)	\$ 1,000
	<b>Estimated Cost of Compliance for the Life of the Rule</b>	<b>\$ 1,000</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTIONS**

- Currently, initial basic training is not required for bail bond licensees or surety recovery agents rendering it difficult to precisely estimate the number of potential educational providers. However, prior to 2003, pre-licensing education was a prerequisite for insurance agent licensure. The Department's data reflects that an aggregate of approximately 10 providers requested certification/licensure as insurance agent pre-licensing educational providers over the last 10 years. After consulting with representatives from the bail bond and surety recovery industries, the Missouri Bail Bond Association and the National Professional Bounty Hunting School, the Department assumes the number of educational providers for bail bond/surety recovery initial basic training will be similar to the numbers of former agent pre-licensing educational providers. Accordingly, the Department estimates a maximum of 10 initial basic training providers will request provider approval over the life of the rule.

**Title 20—DEPARTMENT OF INSURANCE**  
**Division 700—Licensing**  
**Chapter 6—Bail Bond Agents and Surety Recovery Agents**

**PROPOSED RULE**

**20 CSR 700-6.160 Continuing Education for Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents**

*PURPOSE: This rule establishes procedures with regard to the continuing education requirements contained in sections 374.710 and 374.784, RSMo Supp. 2004.*

(1) As used in this rule, unless the context clearly indicates otherwise, the following terms shall mean:

(A) Approved course—an educational presentation offered in a class, seminar, self-study or other forms of instruction involving state and federal laws related to the bail bond industry and law enforcement, surety contract principles, procedures related to the apprehension of prisoners, procedures for field operations, principles of investigation, or other related areas approved by the director;

(B) CEC—continuing education credit for licensed bail bond agents, general bail bond agents and surety recovery agents;

(C) Classroom—an area designated for instructional purposes;

(D) Bail Bond Agent, General Bail Bond Agent and Surety Recovery Agent Continuing Education Certificate of Course Completion—a form provided by the director and completed by the authorized provider representative of an approved course which signifies satisfactory completion of the course and reflects the hours of credit earned;

(E) Bail Bond Agent, General Bail Bond Agent and Surety Recovery Agent Continuing Education Certification Summary—a form provided by the director and completed by the licensee which documents compliance with the continuing education requirements in section 374.710, RSMo;

(F) Bail Bond Agent, General Bail Bond Agent and Surety Recovery Agent Continuing Education Provider Application for Course Approval—a form provided by the director and completed by the course provider which requests approval of a continuing education course from the director;

(G) Affidavit of Bail Bond Agent, General Bail Bond Agent and Surety Recovery Agent Exam Proctor—a form which can be accessed at the department's website at [www.insurance.mo.gov](http://www.insurance.mo.gov) or at the department to be completed by the proctor of an exam taken by the licensee to complete the requirements for credit for a self-study course;

(H) Exam proctor—a disinterested third party of at least eighteen (18) years of age, who has no corporate, employment or personal relationship, or other interest, in the student's performance on the examination;

(I) Teleconference course—a live interactive broadcast that is transmitted via satellite or other electronic means;

(J) Credit hour—constitutes fifty (50) minutes of uninterrupted instruction pertaining to an approved course. Partial hours of credit are not allowed;

(K) Director—the director of the Department of Insurance, or his/her designee;

(L) Licensee—a person who is licensed by the Missouri Department of Insurance (MDI) as a bail bond agent, general bail bond agent or surety recovery agent;

(M) Self-study course—any course completed by a licensee using books, audio and/or videotapes, computer programs, Internet rebroadcast of a taped teleconference, or any other medium of instruction, without the presence of an instructor or monitor.

(2) CEC hours may be earned through the following:

(A) Classroom instruction with a maximum credit of eight (8) CEC hours per course.

(B) Self-Study Courses. The licensee must pass a proctored exam to receive credit. The maximum allowable credit for self-study courses is eight (8) CEC hours per course.

1. The credit hours for a self-study course will be determined by the following method:

A. Workbooks or other printed material—Page count of fifteen (15) pages will equal one (1) credit hour;

B. Computer-based courses or Internet courses will be calculated as: three (3) screens (750 words) will equal one (1) printed page and forty-five (45) screens will equal one (1) credit hour.

2. The proctored exam must have at least twenty-five (25) questions and the exam will be awarded one (1) credit hour for every twenty-five (25) questions.

3. Open book examinations will not be allowed. The licensee will not be allowed access to books, notes, or any other reference material or information that would give or assist the licensee with the answers to the examination questions.

(3) A provider of classroom instruction or a self-study course must seek approval from the director by completing the form "Continuing Education Provider Application for Bail Bond Course Approval," which can be accessed at the department's website at [www.insurance.mo.gov](http://www.insurance.mo.gov) or at the department. The form contains the requirements for obtaining course approval. Incomplete applications that are returned to the applicant for additional information must be resubmitted in their entirety prior to the course presentation date. Credit will not be given to licensees for attending courses prior to the course approval date.

(4) Filing Fees for Course Approval. Every applicant seeking approval by the director of a continuing education course under this section shall pay to the director a filing fee of fifty dollars (\$50) per course. Such fee shall accompany the application form required by the director. Courses shall be approved for a period of no more than one (1) year. Applicants holding courses intended to be offered for a longer period must reapply for approval on forms prescribed by the director and must include a fifty dollar (\$50) course renewal fee.

(5) All course providers must furnish the form "Continuing Education Certificate of Course Completion" to any licensee who earns CEC hours after completing an approved course. The form contains record keeping requirements for licensees. The form can be accessed at the department's website at [www.insurance.mo.gov](http://www.insurance.mo.gov) or at the department.

(6) Bail bond agents, general bail bond agents and surety recovery agents must submit the form "Continuing Education Certification Summary" to the director to show compliance with sections 374.710 and 374.784, RSMo. The form can be accessed at the department's website at [www.insurance.mo.gov](http://www.insurance.mo.gov) or at the department.

(7) Bail bond agents, general bail bond agents and surety recovery agents taking self-study courses must have the exam proctor complete the form "Affidavit of Exam Proctor" to show compliance with sections 374.710 and 374.784, RSMo, and return the form to the provider. The form can be accessed at the department's website at [www.insurance.mo.gov](http://www.insurance.mo.gov) or at the department.

(8) Within thirty (30) days of the date a course is completed by a licensee, providers shall notify the director of the credit hours earned by a licensee in an electronic form as prescribed by the director. Specifications may be obtained by contacting the Licensing Section of the department.

(A) For good cause shown, the director or the director's designee may by written order waive application of the provisions of this section of the rule. The extent of the waiver will be governed by the terms of the written order granting the waiver.

(9) A licensee may not repeat a course for credit during the same renewal period.

(10) Courses that were taken prior to the date of the Missouri license will not be allowable for credit as continuing education.

(11) The department may audit the approved courses or the licensee's continuing education records at any time.

(12) Failure of providers to comply with Missouri insurance statutes or regulations may result in revocation of the courses and/or corrective action against the provider.

(13) Reporting Period.

(A) All resident and nonresident bail bond agents, general bail bond agents and surety recovery agents must file the Continuing Education Certification Summary listing the completed courses approved by the Missouri Department of Insurance at the time of their biennial license renewal.

(B) Resident and nonresident bail bond agents, general bail bond agents and surety recovery agents must show proof of compliance with the continuing education requirements at the time of their biennial license renewal.

(14) The cost per student for eight (8) hours of continuing education shall not exceed one hundred fifty dollars (\$150).

*AUTHORITY: sections 374.045, RSMo 2000 and 374.705, 374.710 and 374.784, RSMo Supp. 2004. Original rule filed Sept. 14, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities ten thousand dollars (\$10,000) annually in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on November 18, 2004. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on November 18, 2004. Written statements shall be sent to Kimberly A. Grinston, Department of Insurance, PO Box 690, Jefferson City, MO 65102.*

*SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.*

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	20 CSR 700-6.160 Continuing Education for Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
20	Continuing Education Providers for Bail Bond, General Bail Bond and Surety Recovery Agents  (200 courses applications/ renewals per year @ \$50 each)	\$ 10,000 annually
	<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>	<b>\$ 10,000</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTIONS**

- Currently, continuing education is not required for bail bond licensees or surety recovery agents rendering it difficult to precisely estimate the number of potential educational courses.
- Based on discussions with representatives from the bail bond and surety recovery industry, the Missouri Bail Bond Association and the National Professional Bounty Hunting School, it is assumed the ratio of educational providers to bail bond and surety recovery agent licensees will approximately equal the ratio of insurance producer continuing education providers to insurance producer licenses.
- Currently, there are approximately 46,000 resident licensed insurance producers and approximately one continuing education provider per 100 insurance producer licensees.
- Based on the Department's research and the Department's licensing records, the Department statistically issues or renews a total of approximately 950 bail bond agents, general bail bond agents and general bail bond corporations licenses biennially. The Department assumes the annual number of bail bond licensees will remain consistent



over the life of this rule and therefore estimates a total of 950 bail bond new or renewed bail bond licensees biennially.

- It is assumed that an aggregate of 1,050 surety recovery agents will apply for or renew a surety recovery agent license biennially. This calculation estimates approximately one licensed surety recovery agent per current bail bond licensee and does not include licensed bail bond agents who are authorized to perform surety recovery activities without a separate surety recovery license.
- Based on the foregoing, it is estimated that a total of 2,000 bail bond and surety recovery agents will require continuing education biennially (950 bail bond licensees + 1,050 surety recovery agents)
- Applying the continuing education course ratio indicated above, the Department assumes approximately 20 bail bond/surety recovery educational providers will apply for course approval each year (1 provider per every 100 of the estimated 2,000 bail bond and surety recovery licensees).
- The estimate of continuing education courses subject to the proposed rule was similarly calculated based on the Department's research and current producer education data which evidences a ratio of approximately 1 insurance producer continuing education course for every 10 producer licensees (currently 4,242 continuing education courses are approved or renewed each year for approximately 46,000 insurance producer licensees). Based on this ratio and discussions with representatives from the bail bond and surety recovery industries, it is assumed that a total number of 200 bail bond and surety recovery courses will be submitted for approval or renewal each year (1 course for every 10 of the estimated 2,000 bail bond and surety recovery licensees).
- It is anticipated the estimated total cost will recur annually for the life of the rule.

**Title 20—DEPARTMENT OF INSURANCE**  
**Division 700—Licensing**  
**Chapter 6—Bail Bond Agents and Surety Recovery Agents**

**PROPOSED RULE**

**20 CSR 700-6.170 Change of Status Notification for Bail Bonds Agents, General Bail Bonds Agents and Surety Recovery Agents**

*PURPOSE:* This rule sets the requirements for notification of the Department of Insurance of a change in status of specified information provided on the original application.

(1) Bail bond agents, general bail bond agents and surety recovery agents shall inform the director of a change of name or change of address within thirty (30) days of the change by submitting a change in status form which may be obtained on the department website at [www.insurance.mo.gov](http://www.insurance.mo.gov) or at the offices of the department.

(2) General bail bond corporations shall inform the director of a change of officers/owners within thirty (30) days of the change by submitting a change in status form which may be obtained on the department website at [www.insurance.mo.gov](http://www.insurance.mo.gov) or at the offices of the department.

(3) Failure to timely inform the director of the changes described in this rule may result in a forfeiture not to exceed the sum of ten dollars (\$10) per month.

*AUTHORITY:* sections 374.045, RSMo 2000 and 374.705, 374.710 and 374.784, RSMo Supp. 2004. Original rule filed Sept. 14, 2004.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* A public hearing will be held on this proposed rule at 10:00 a.m. on November 18, 2004. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on November 18, 2004. Written statements shall be sent to Kimberly A. Grinston, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

*SPECIAL NEEDS:* If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

**Title 20—DEPARTMENT OF INSURANCE**  
**Division 700—Licensing**  
**Chapter 6—Bail Bond Agents and Surety Recovery Agents**

**PROPOSED AMENDMENT**

**20 CSR 700-6.200 Assignment and Acknowledgement.** The department is amending the title of the chapter, the Purpose and sections (1)–(3), deleting section (4), and the form that follows the rule

in the *Code of State Regulations*.

*PURPOSE:* This rule is being amended to implement the legislative changes enacted by Senate Bill 1122 in the 2004 legislative session of the 92nd General Assembly and to update the required forms and procedures for the assignment of assets to the department by a general bail bond agent.

*PURPOSE:* This rule is intended to clarify the procedure for [and form of] the asset assignment requirement under sections 374.715 and 374.740, RSMo Supp. 2004. [This rule also provides the form of the assignment for the benefit of the state of Missouri to be used by all applicants for and by all current licensees seeking renewal of licensure as a general bail bond agent.]

(1) The ten thousand dollar (\$10,000)- or twenty-five thousand dollar (\$25,000)-asset or assets required by sections 374.715 and 374.740, RSMo, shall be held in the name of the general bail bond agent [for the owner of the asset or assets,] with the state of Missouri, director of the Department of Insurance as assignee. [The interest of the state of Missouri and the director shall be prominently shown on the asset or assets.] The general bail bond agent applicant shall submit with the general bail bond license application, the fee stated in section (1) of 20 CSR 700-6.100, the Assignment, a completed Acknowledgement of Assignment from the financial institution issuing the Certificate of Deposit, and the original Certificate of Deposit.

(2) [The Assignment form set forth as Exhibit 1 of this rule shall be used and submitted to the department by all applicants for licensure or upon renewal of licensure as a general bail bond agent in order to comply with the provisions of sections 374.715 and 374.740, RSMo. All general bail bond agent licensees seeking renewal shall supply a copy of this form with each renewal.] All general bail bond agents seeking renewal shall supply an original letter from the financial institution issuing the assigned Certificate of Deposit, stating that the Certificate of Deposit is still assigned to the state of Missouri. The letter must be printed on the financial institution's letterhead, provide the Certificate of Deposit number, the general bail bond agent's name, and must be signed and dated by an official of the financial institution. The letter from the financial institution shall be submitted with the renewal request and renewal fee stated in section (1) of 20 CSR 700-6.100.

(3) [The Acknowledgement of Assignment and Release of Assignment form set forth as Exhibit 2 of this rule shall be sent to the holder of the asset or assets required by section 374.715, RSMo.] The Assignment form and the Acknowledgement of Assignment and Release of Assignment form are available on the department website at [www.insurance.mo.gov](http://www.insurance.mo.gov) and at the offices of the Department of Insurance.

[(4) The holder of the asset or assets shall execute the Acknowledgement of Assignment and return it to the department within thirty (30) days of receipt.]

*AUTHORITY:* sections [374.045, 374.700–374.775, RSMo 1994] 374.710 and 374.784, RSMo Supp. 2004. Original rule filed Oct. 15, 1996, effective May 30, 1997. Amended: Filed Sept. 14, 2004.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** A public hearing will be held on this proposed amendment at 10:00 a.m. on November 18, 2004. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on November 18, 2004. Written statements shall be sent to Kimberly A. Grinston, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

**SPECIAL NEEDS:** If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

**Title 20—DEPARTMENT OF INSURANCE**  
**Division 700—Licensing**  
**Chapter 6—Bail Bond Agents and Surety Recovery Agents**

**PROPOSED RULE**

**20 CSR 700-6.250 Assignment of Additional Assets**

**PURPOSE:** This rule effectuates and aids in the interpretation of the provisions of sections 374.715 and 374.740, RSMo Supp. 2004, involving the conditions under which an assignment of additional assets to the director will be required of a general bail bond agent.

- (1) The director may require the assignment of additional assets if:
- (A) The department receives notices from a court or courts that the general bail bond agent has accumulated seven thousand dollars (\$7,000) in unsatisfied bond forfeiture judgments;
  - (B) The department receives multiple notices of unsatisfied judgments within a thirty (30)-day period;
  - (C) The department receives a complaint or complaints that the general bail bond agent owes parties to the bail contract or any persons providing funds or collateral for bail in excess of five thousand dollars (\$5,000); or
  - (D) The department receives notice from a court or courts that the general bail bond agent, acting as surety, has executed a bond or bonds exceeding the assets declared to the court or courts pursuant to the provisions of Supreme Court Rule 33.18.

(2) In the event that the general bail bond agent receives notice from the department that the assignment of additional assets is required, the general bail bond agent shall obtain a Certificate of Deposit in the name of the general bail bond agent for the amount requested by the department. The original Certificate of Deposit, an Assignment, and a completed Acknowledgement of Assignment from the financial institution issuing the Certificate of Deposit shall be submitted to the department within twenty (20) working days of receipt of the notice by the general bail bond agent. Acknowledgement of Assignment forms are available on the department website at [www.insurance.mo.gov](http://www.insurance.mo.gov) and at the offices of the Department of Insurance.

**AUTHORITY:** sections 374.045, RSMo 2000 and 374.705, 374.715 and 374.740, RSMo 2004. Original rule filed Sept. 14, 2004.

**PUBLIC COST:** This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** A public hearing will be held on this proposed rule at 10:00 a.m. on November 18, 2004. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on November 18, 2004. Written statements shall be sent to Kimberly A. Grinston, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

**SPECIAL NEEDS:** If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

**Title 20—DEPARTMENT OF INSURANCE**  
**Division 700—Licensing**  
**Chapter 6—Bail Bond Agents and Surety Recovery Agents**

**PROPOSED AMENDMENT**

**20 CSR 700-6.300 Affidavits.** The department is amending the title of the Chapter, the Purpose, section (1), and deleting the form that follows this rule in the *Code of State Regulations*.

**PURPOSE:** This rule is being amended to implement the legislative changes enacted by Senate Bill 1122 in the 2004 legislative session of the 92nd General Assembly and to amend the forms for affidavits required by section 374.760, RSMo.

**PURPOSE:** This rule establishes [the form of the affidavit] the location of the affidavit form required to be filed monthly pursuant to section[s] 374.760, RSMo Supp. 2004.

- (1) The Affidavit form [set forth as Exhibit 1 of this rule shall] required to be filed between the first and the tenth day of each month by each general bail bond agent in order to comply with the provisions of section 374.760, RSMo, is available on the department website at [www.insurance.mo.gov](http://www.insurance.mo.gov) and at the offices of the Missouri Department of Insurance.

**AUTHORITY:** sections 374.045 [374.700-374.775, RSMo 1994 and Supp. 1998] and 374.760, RSMO 2000 and 374.705 RSMo Supp. 2004. Original rule filed Oct. 15, 1996, effective May 30, 1997. Amended: Filed April 23, 1999, effective Nov. 30, 1999. Amended: Filed Sept. 14, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** A public hearing will be held on this proposed amendment at 10:00 a.m. on November 18, 2004. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on November 18, 2004. Written statements shall be sent

*to Kimberly A. Grinston, Department of Insurance, PO Box 690,  
Jefferson City, MO 65102.*

*SPECIAL NEEDS: If you have any special needs addressed by the  
Americans With Disabilities Act, please notify us at (573) 751-6798  
or (573) 751-2619 at least five (5) working days prior to the hearing.*



**T**his section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

**T**he agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested  
Cases Under Statutory Jurisdiction**

**ORDER OF RULEMAKING**

By the authority vested in the Administrative Hearing Commission under sections 621.053 and 621.198, RSMo Supp. 2003, the commission amends a rule as follows:

**1 CSR 15-3.350 Complaints is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2004 (29 MoReg 1048). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested  
Cases Under Statutory Jurisdiction**

**ORDER OF RULEMAKING**

By the authority vested in the Administrative Hearing Commission under section 621.198, RSMo Supp. 2003, the commission amends a rule as follows:

**1 CSR 15-3.380 Answers and Other Responsive Pleadings is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2004 (29 MoReg 1049). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested  
Cases Under Statutory Jurisdiction**

**ORDER OF RULEMAKING**

By the authority vested in the Administrative Hearing Commission under sections 536.073, RSMo 2000 and 621.198, RSMo Supp. 2003, the commission amends a rule as follows:

**1 CSR 15-3.420 Discovery is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2004 (29 MoReg 1049). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested  
Cases Under Statutory Jurisdiction**

**ORDER OF RULEMAKING**

By the authority vested in the Administrative Hearing Commission under sections 536.073, RSMo 2000 and 621.198, RSMo Supp. 2003, the commission amends a rule as follows:

**1 CSR 15-3.440 Disposing of a Case Without a Hearing on the Complaint is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2004 (29 MoReg 1049-1050). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested  
Cases Under Statutory Jurisdiction**

## ORDER OF RULEMAKING

By the authority vested in the Administrative Hearing Commission under section 621.198, RSMo Supp. 2003, the commission amends a rule as follows:

### 1 CSR 15-3.480 Motions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2004 (29 MoReg 1050-1051). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 110—Missouri Dental Board Chapter 2—General Rules

## ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under sections 332.031 and 332.091, RSMo 2000 and 332.071 and 332.311, RSMo Supp. 2003, the board amends a rule as follows:

### 4 CSR 110-2.130 Dental Hygienists is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2004 (29 MoReg 890). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 33—Service and Billing Practices for Telecommunications Companies

## ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250, 392.185(9) and 392.470, RSMo 2000, the commission adopts a rule as follows:

### 4 CSR 240-33.160 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 2004 (29 MoReg 732-735). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A hearing was held on June 8, 2004 in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Oral testimony and written comments were received during the comment period regarding proposed rule 4 CSR 240-33.160.

COMMENT: Southwestern Bell Telephone, L.P. d/b/a SBC Missouri ("SBC") commented that the proposed rule is unnecessary because 47 U.S.C. section 222 and 47 CFR sections 64.2001 through 64.2009 adequately protect Missouri consumers against misuse of customer proprietary network information ("CPNI").

RESPONSE: The commission finds the proposed rule necessary and consistent with section 392.185(9), RSMo 2000, which states a purpose of Chapter 392 of the *Missouri Revised Statutes* is to protect consumer privacy. No changes have been made to the rule as a result of this comment.

COMMENT: Several telecommunications companies commented that the rulemaking should be no different than federal rules 47 CFR sections 64.2001 through 64.2009.

RESPONSE AND EXPLANATION OF CHANGE: The commission's proposed rulemaking essentially mirrors the federal rules with a few slight differences. Changes made in this final order of rulemaking bring the proposed rule much closer to the federal rule. The few remaining differences between this rule and the federal rule provide further protections for Missouri consumers in areas of concern that were identified after the federal rules were implemented.

COMMENT: SBC opposed the definition of "affiliate" in proposed subsection (1)(A). SBC believes the definition should be the same as the definition of "affiliate" in the Telecommunications Act of 1996 at 47 U.S.C. section 153(1).

RESPONSE: The commission finds the proposed definition of "affiliate" is consistent with definitions of affiliate found in Chapters 20, 40 and 80 of the commission rules and will not change the meaning from the federal rule. No changes have been made to the rule as a result of this comment.

COMMENT: SBC opposed the definition of "categories of service" in proposed subsection (1)(C) and proposes the definition be deleted or modified to be more consistent with the federal rules. Natelle Dietrich, an economist on the commission's staff, recommended that the definition be changed to be similar to the federal definition in 47 CFR section 64.2005(a).

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the categories of service applicable in Missouri should be consistent with the categories of service applicable in the federal rule. It was not the commission's intent to change the categories of service to which the CPNI rules apply. The commission will change (1)(C) to be more consistent with the definition found at 47 CFR section 64.2005(a).

COMMENT: SBC opposed including a definition of "CMRS" in proposed subsection (1)(D) because the term CMRS is not used anywhere in the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that defining CMRS is not necessary and will remove this definition from the rule. This change will require a renumbering of all subsequent terms defined in proposed subsections (1)(E) to (1)(V).

COMMENT: SBC opposed the definition of "customer" found in proposed subsection (1)(G) and suggested deleting this definition from the rule. SBC suggested the definition would require companies to obtain CPNI approval to use a former customer's CPNI for re-establishing service. Natelle Dietrich, an economist on the commission's staff, suggested removing language from the definition of customer and adding language to the rule to address SBC's concerns. RESPONSE AND EXPLANATION OF CHANGE: The proposed rules are not intended to prevent a company from marketing to former customers. To address SBC's concerns, the commission finds it necessary to change the definition of "customer" by removing the

language “or any person or entity with which the telecommunications company has had a prior service relationship” as proposed by SBC. The commission will also add language to (6)(C) to clarify that a company is required to keep CPNI for all current and former customers for a minimum of one (1) year.

COMMENT: SBC opposed the definition of “customer premises equipment” (“CPE”) from proposed subsection (1)(I) and claimed the word “customer” could include wholesale customers. SBC proposed that the commission use the definition of CPE from the Telecommunications Act of 1996 at 47 U.S.C. section 153(14).

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the definition of CPE could be misconstrued to apply to wholesale customers. The commission will change the definition of CPE to the definition used in the Telecommunications Act of 1996 at 47 U.S.C. section 153(14).

COMMENT: SBC opposed the definition of “independent contractor” found in proposed subsection (1)(J). SBC claimed that the proposed rules are unclear and proposed a new definition. Natelle Dietrich, an economist on the commission’s staff, stated that the staff did not object to SBC’s proposed definition.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the definition of independent contractor should be revised to a definition similar to the definition proposed by SBC.

COMMENT: SBC opposed the definition of “joint venture partner” found in proposed subsection (1)(M). SBC stated that the terms “specific project” and “financial interest” are “too nebulous to be workable” and proposed a modification. Natelle Dietrich, an economist on the commission’s staff, stated that the staff did not object to SBC’s proposed definition.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the definition of joint venture partner should be revised to a definition similar to the definition proposed by SBC.

COMMENT: SBC opposed the definition of “local exchange company” in proposed subsection (1)(N) and suggested that the definition be changed to the definition used in the Telecommunications Act of 1996 at 47 U.S.C. section 153(26).

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with SBC that the definition should be consistent with the definition found at 47 U.S.C. section 153(26) and will change the rule accordingly.

COMMENT: SBC opposed the definition of “Public Safety Answering Point” (“PSAP”) from (1)(R) and suggested using the definition in the Telecommunications Act of 1996 at 47 U.S.C. section 222(h)(4).

RESPONSE: The commission finds the proposed definition is consistent with the definition of PSAP found in 4 CFR 240-34.020(20) of the commission’s rules regarding emergency telephone service standards. The commission further finds that the proposed definition does not alter the meaning of PSAP found at 47 U.S.C. section 222(h)(4). No changes have been made to the rule as a result of this comment.

COMMENT: AT&T Communications of the Southwest, Inc. (“AT&T”) submitted a proposal to add a new paragraph (2)(B)3. to the commission’s proposed rule to address issues regarding the wholesale use of customer information. Natelle Dietrich, an economist on the commission’s staff, stated that AT&T’s proposal goes beyond the intent of the proposed rule.

RESPONSE: The commission finds that the new language proposed by AT&T is beyond the scope of this rulemaking. Addressing these expanded issues would require additional research and fiscal analy-

sis. No changes have been made to the rule as a result of this comment.

COMMENT: SBC opposed proposed paragraph (2)(C)4. that allows CPNI access for PSAPs, and claimed the rule expanded the information released to PSAPs. Natelle Dietrich, an economist on the commission’s staff, proposed a modification to the rule to address SBC’s concerns.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds it necessary to modify (2)(C)4. to reflect that a telecommunications company may not use, disclose or permit access to CPNI to a PSAP and to clarify that a telecommunications company shall only be required to use, disclose and permit access to subscriber list information to a PSAP.

COMMENT: SBC and Sprint Missouri, Inc. opposed including the terms “affiliate and agent” in subsection (3)(A) because they significantly expand the intent of the similar federal rules since the federal rules do not require confidentiality agreements with affiliates and agents. Natelle Dietrich, an economist on the commission’s staff, suggested that the rule be modified to parallel the federal rule. Ms. Dietrich and the staff further recommended the addition of language to require telecommunications carriers to inform third parties that CPNI shall not be released to any other entity.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds it necessary to include the terms “affiliate and agent” in subsection (3)(A). The commission’s intent in including these terms was to ensure that a company’s affiliates and agents adhere to the same consumer protections as the regulated company. However, to address the concerns raised by the parties, the commission will add a sentence holding the telecommunications company responsible if its affiliates or agents further use, allow access to, or disclose customer CPNI, if that telecommunications company does not choose to enter into confidentiality agreements with its affiliates or agents as required by the rule.

COMMENT: Comments from several telecommunications companies opposed the requirement in proposed paragraph (4)(C)5. for written notice to use at least twelve (12)-point font. AT&T and SBC commented that the ten (10)-point font currently used in the notice is adequate.

RESPONSE AND EXPLANATION OF CHANGE: The commission included the twelve (12)-point font requirement to ensure the consumer notice is legible. The Federal Communications Commission’s rules require telecommunications companies to provide a notice that is “clearly legible” and that uses “sufficiently large type.” 47 CFR 64.2008(c)(5). The commission finds that a ten (10)-point font requirement is sufficiently large to be legible and would prevent carriers from having to incur the expense of changing to a twelve (12)-point font. The commission will replace “twelve (12)-point font” with “ten (10)-point font” in (4)(C)5. The commission will also add the word “to” in subsection (4)(C) between the words “carrier” and “use” to correct a grammatical error.

COMMENT: SBC opposed the proposed paragraph (4)(C)7. font size requirement as an attempt to regulate marketing practices. Natelle Dietrich, an economist on the commission’s staff, commented that the font size requirement is to assist customers in understanding the opt-in and opt-out requirements.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that paragraph (4)(C)7. is necessary to protect consumers from misleading practices that diminish the importance of the customer’s CPNI rights. The commission will clarify paragraph (4)(C)7. to illustrate that this paragraph is regulating the opt-in and opt-out notice requirements rather than the marketing practices of telecommunications companies.



COMMENT: SBC opposed proposed section (5) regarding the release of CPNI resulting from a bankruptcy, cessation of operations, merger or a transfer of assets. SBC stated that it does not have a system in place to accept opt-in/opt-out authorizations and it does not always receive customer information on customers transferred pursuant to a bankruptcy.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the transfer of CPNI data is necessary to help facilitate a seamless company transfer for the customer. However, the commission will add language to subsection (5)(C) to reflect that if the bankrupt company does not transfer CPNI data, the company receiving the new customers shall send a new CPNI notice to the customers acquired through the bankruptcy.

COMMENT: Natelle Dietrich, an economist on the commission's staff, suggested a modification to proposed section (5) to clarify that section (5) of the rule does not apply to carriers of last resort.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that section (5) of the rule should not apply to customers transferred to the carrier of last resort under the commission's snap-back rule, 4 CSR 240-32.120, and will change the rule accordingly.

#### **4 CSR 240-33.160 Customer Proprietary Network Information**

(1) Definitions. For the purposes of 4 CSR 240-33.160, the following definitions are applicable:

(C) Categories of service include local exchange telecommunications services and interexchange telecommunications services;

(D) Communications-related services are telecommunications services, information services typically provided by telecommunications companies, and services related to the provision or maintenance of customer premises equipment;

(E) Control (including the terms "controlling," "controlled by," and "common control") is the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one (1) or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of ten percent (10%) or more of voting securities or partnership interest of an entity constitutes control for purposes of this rule;

(F) Customer is a person or entity to which the telecommunications company is currently providing service;

(G) Customer proprietary network information (CPNI) is information that relates to the quantity, technical configuration, type, destination, location and amount of use of a telecommunications service subscribed to by any customer of a telecommunications company, and that is made available to the telecommunications company by the customer solely by virtue of the customer-telecommunications company relationship. Customer proprietary network information also is information contained in bills pertaining to basic local exchange telecommunications service or interexchange telecommunications service received by a customer of a telecommunications company. Customer proprietary network information does not include subscriber list information;

(H) Customer premises equipment (CPE) is equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications;

(I) Independent contractor is a third party who contracts with a telecommunications company for the provision of services to the telecommunications company, but who is not controlled by the telecommunications company;

(J) Information service is the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service;

(K) Information services typically provided by telecommunications companies are only those information services as defined in subsection (1)(J) that are typically provided by telecommunications companies, such as Internet access or voice mail services. Information services typically provided by telecommunications companies as used in this rule shall not include retail consumer services provided using Internet websites (such as travel reservation services or mortgage lending services), whether or not such services may otherwise be considered to be information services;

(L) Joint venture partner is a third party that agrees to share with a telecommunications company in the profits and losses of a business entity formed by the telecommunications company and the third party;

(M) Local exchange telecommunications company (LEC) is any company engaged in the provision of local exchange or exchange access telecommunications services;

(N) Opt-in approval is a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. This approval method requires that the telecommunications company obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided appropriate notification of the telecommunications company's request consistent with the requirements set forth in this rule;

(O) Opt-out approval is a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. Under this approval method, a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within a thirty (30)-day minimum period of time after the customer is provided appropriate notification of the telecommunications company's request for consent consistent with these rules. A telecommunications company may, in its discretion, provide for a longer period. Telecommunications companies must notify customers as to the applicable waiting period for a response before approval is assumed;

(P) Party is a participant in, or an agent or designee acting on behalf of and for the benefit of a participant to a transaction in which an end-user's CPNI is sold, transferred, shared or otherwise disseminated;

(Q) Public safety answering point (PSAP) is a communications location used by public safety agencies for answering emergency telephone service calls which originate in a given area. A PSAP may be designated as primary or secondary, which refers to the order in which calls are directed for answering. PSAPs may be located at police, fire or emergency medical service communications centers, or may be located in a specialized centralized communications center which handles all emergency communications for an area;

(R) Subscriber list information (SLI) is any information identifying the listed names of subscribers of a telecommunications company and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and that the telecommunications company or an affiliate has published, caused to be published, or accepted for publication in any directory format;

(S) Telecommunications company is used as defined in section 386.020, RSMo 2000;

(T) Telecommunications service is used as defined in section 386.020, RSMo 2000;



(U) Third party is a company not owned or controlled by or owning or controlling a telecommunications company. The third party usually operates outside the market in which a telecommunications company operates and does not provide communications-related services.

(2) Use of CPNI Without Customer Approval.

(C) Approval not required for use of customer proprietary network information.

1. A telecommunications company may use, disclose, or permit access to CPNI, without customer approval, in its provision of inside wiring installation, maintenance, and repair services.

2. A telecommunications company may use CPNI, without customer approval, to market services such as, but not limited to, speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and certain centrex features.

3. A telecommunications company may use, disclose, or permit access to CPNI to protect the rights or property of the telecommunications company, or to protect users of those services and other telecommunications companies from fraudulent, abusive, or unlawful use of, or subscription to, such services.

4. A telecommunications company may use, disclose, or permit access to customer information to public safety answering points (PSAPs) if the PSAP claims it needs the information to respond to an emergency. Information to be released shall be limited to subscriber list information as defined in 4 CSR 240-33.160(1)(R).

(3) Approval Required for Use of CPNI.

(A) Use of Opt-Out and Opt-In Approval Process.

1. A telecommunications company may, subject to opt-out approval or opt-in approval, use its customer's individually identifiable CPNI for the purpose of marketing communications-related services to that customer. A telecommunications company may, subject to opt-out approval or opt-in approval, disclose its customer's individually identifiable CPNI, for the purpose of marketing communications-related services to that customer, to its agents; its affiliates that provide communications-related services; and its joint venture partners and independent contractors. A telecommunications company may also permit such persons or entities to obtain access to such CPNI for such purposes. Any such disclosure to or access provided to agents, affiliates, joint venture partners and independent contractors shall be subject to the safeguards set forth in paragraph (3)(A)2. below. A telecommunications company may elect not to apply the safeguards set forth in paragraph (3)(A)2. below to its agents or affiliates, however, if the telecommunications company so elects, then it shall be held responsible if its agents or affiliates further use, allow access to, or disclose customer CPNI.

2. Agent/affiliate/joint venture/contractor safeguards. A telecommunications company that discloses or provides access to CPNI to its agents, affiliates, joint venture partners or independent contractors shall enter into confidentiality agreements with those agents, affiliates, joint venture partners or independent contractors that comply with the following requirements. The confidentiality agreement shall:

A. Require that those agents, affiliates, joint venture partners or independent contractors use the CPNI only for the purpose of marketing or providing the communications-related services for which that CPNI has been provided;

B. Disallow the agents, affiliates, joint venture partners or independent contractors from using, allowing access to, or disclosing the CPNI to any other party, unless required to make such disclosure under force of law; and

C. Require that the agents, affiliates, joint venture partners and independent contractors have appropriate protections in place to ensure the ongoing confidentiality of customers' CPNI.

(4) Customer Notification Requirements.

(C) Content of Notice. Customer notification must provide sufficient information to enable the customer to make an informed decision as to whether to permit a carrier to use, disclose, or permit access to, the customer's CPNI.

1. The notification must state that the customer has a right, and the telecommunications company a duty, under federal and state law, to protect the confidentiality of CPNI.

2. The notification must specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purposes for which CPNI will be used, and inform the customer of his or her right to disapprove those uses, and deny or withdraw access to CPNI at any time.

3. The notification must advise the customer of the precise steps the customer must take in order to grant or deny access to CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the customer subscribes. However, companies may provide a brief statement, in clear and neutral language, describing consequences directly resulting from the lack of access to CPNI.

4. The notification shall be comprehensible and shall not be misleading.

5. If written notification is provided, the notice must be clearly legible, use at least a ten (10)-point font, and be placed in an area so as to be readily apparent to a customer.

6. If any portion of a notification is translated into another language, then all portions of the notification must be translated into that language.

7. A telecommunications company may state in the notification that the customer's approval to use CPNI may enhance the telecommunications company's ability to offer products and services tailored to the customer's needs. The notification required under subsection (4)(C) shall be in a font size no smaller than such statement.

8. A telecommunications company also may state in the notification that it may be compelled to disclose CPNI to any person upon affirmative written request by the customer.

9. A telecommunications company may not include in the notification any statement attempting to encourage a customer to freeze third party access to CPNI.

10. The notification must state that any approval, or denial of approval for the use of CPNI outside of the service to which the customer already subscribes to from that telecommunications company is valid until the customer affirmatively revokes or limits such approval or denial.

11. A telecommunications company's solicitation for approval must include a notification of a customer's CPNI rights. The CPNI rights must be in close proximity to the solicitation.

(5) Release of Customer Proprietary Network Information Resulting from Bankruptcy, Cessation of Operation, Merger or Transfer of Assets.

(C) Any opt-in/opt-out authorizations the customers previously executed with the exiting carrier should be transferred to the new carrier automatically, thereby ensuring that customers maintain their privacy interests by protecting this information from disclosure and dissemination. If the exiting carrier does not transfer CPNI data to the new carrier, the company receiving the new customers shall send a new CPNI notice to the customers acquired from the exiting carrier.

(D) The provisions of this section do not apply to customers transferred to the carrier of last resort under the commission's snap-back rule, 4 CSR 240-32.120.

(6) Safeguards Required for Use of Customer Proprietary Network Information.

(C) All telecommunications companies shall maintain a record, electronically or in some other manner, of their own, their agents', their affiliates', their joint venture partners', or their independent contractors' sales and marketing campaigns that use their customers' CPNI. All companies shall maintain a record of all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. The record must include a description of each campaign, the specific CPNI that was used in the campaign, and what products and services were offered as a part of the campaign. Telecommunications companies shall retain these records for all current and former customers for a minimum of one (1) year.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 80—Teacher Quality and Urban Education  
Chapter 805—Educator Preparation**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Education under sections 161.092 and 168.021, RSMo Supp. 2003 and 161.097 and 161.099, RSMo 2000, the board amends a rule as follows:

5 CSR 80-805.015 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 17, 2004 (29 MoReg 791-793). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Elementary and Secondary Education (DESE) received one (1) comment on the proposed amendment during the comment period.

COMMENT: The president of one (1) independent university wrote to comment on the proposed amendment to extend the maximum period of approval for a professional education program from five (5) years to seven (7) years, and suggested that the proposed amendment be modified to allow a program to be approved for a period not to exceed ten (10) years. In the same letter, the university president also suggested that the proposed section (3) authorizing the recognition of National Council for Accreditation of Teacher Education (NCATE) standards also include Teacher Education Accreditation Council (TEAC) standards, because both agencies are recognized by the United States Department of Education.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully considered the comments and has decided not to extend the period of approval to ten (10) years. Upon review, the board will change section (3).

**5 CSR 80-805.015 Procedures and Standards for Approval of  
Professional Education Programs in Missouri**

(3) In lieu of the standards listed above, the board may accept the standards of any accrediting agency used for the evaluation of a professional education unit in an institution of higher education if the agency is approved by the United States Department of Education and has established a formal agreement with DESE.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 80—Teacher Quality and Urban Education  
Chapter 805—Educator Preparation**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Education under sections 161.097 and 161.099, RSMo 2000 and 161.092 and 168.021, RSMo Supp. 2003, the board rescinds a rule as follows:

**5 CSR 80-805.016 Procedures for Approval of Preliminary  
Professional Education Programs in Missouri is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 17, 2004 (29 MoReg 793). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 60—Safe Drinking Water Commission  
Chapter 5—Laboratory and Analytical Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo Supp. 2003, the commission amends a rule as follows:

10 CSR 60-5.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2004 (29 MoReg 465-479). Typographical errors are corrected in section (7) and reprinted below. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held May 11, 2004 and the public comment period ended June 11, 2004. At the public hearing the department testified that the purpose of the rulemaking is to incorporate by reference improvements in accepted analytical methods for processing drinking water samples that have been made in recent years. It is necessary to adopt these requirements in order to ensure laboratories are using the best possible methods for analysis, and in order for primacy revision applications to be approved by EPA. Adopting the latest analytical methods enhances protection of public health by requiring the use of the best methods for testing drinking water for contamination. The statutory authority for this rulemaking is found in section 640.100 of the *Revised Statutes of Missouri*, which requires the Safe Drinking Water Commission to promulgate rules necessary for the implementation, administration and enforcement of the federal Safe Drinking Water Act. No comments were received. Two (2) typographical errors are corrected in section (7), which is reprinted here. With these changes, the rule is adopted as proposed.

**10 CSR 60-5.010 Accepted and Alternate Procedures for Analyses**

(7) The department may reduce the total number of samples a system must analyze by allowing the use of compositing. Compositing shall be conducted according to the following procedures incorporated by reference.

(A) Sample compositing procedures for inorganic contaminants in 40 CFR 141.23(a)(4) of the July 1, 2003 *Code of Federal Regulations* are incorporated by reference.

(B) Sample compositing procedures for volatile organic contaminants in 40 CFR 141.24(f)(14) of the July 1, 2003 *Code of Federal Regulations* are incorporated by reference.

(C) Sample compositing procedures for synthetic organic contaminants in 40 CFR 141.24(h)(10) of the July 1, 2003 *Code of Federal Regulations* are incorporated by reference.

(D) Sample compositing procedures for radiological contaminants in 40 CFR 141.26(a)(4) of the July 1, 2003 *Code of Federal Regulations* are incorporated by reference.

(E) Sample compositing procedures for lead and copper in 40 CFR 141.88(a)(1)(iv) *Code of Federal Regulations* are incorporated by reference.

**Title 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 50—General**

**ORDER OF RULEMAKING**

By the authority vested in the commissioner of securities under section 409.6-605, RSMo Supp. 2003, the commissioner amends a rule as follows:

**15 CSR 30-50.040 Forms is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2004 (29 MoReg 1054-1055). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 51—Broker-Dealers, Agents, Investment  
Advisers, and Investment Adviser Representatives**

**ORDER OF RULEMAKING**

By the authority vested in the commissioner of securities under section 409.6-605, RSMo Supp. 2003, the commissioner amends a rule as follows:

**15 CSR 30-51.180 Exemptions from Registration for Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2004 (29 MoReg 1055). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 54—Exemptions and Federal Covered Securities  
ORDER OF RULEMAKING**

By the authority vested in the commissioner of securities under section 409.6-605, RSMo Supp. 2003, the commissioner adopts a rule as follows:

**15 CSR 30-54.195 Missouri Agricultural Cooperatives is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 1, 2004 (29 MoReg 1055-1056). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 55—Hearings Under Securities Act**

**ORDER OF RULEMAKING**

By the authority vested in the commissioner of securities under section 409.6-605, RSMo Supp. 2003, the commissioner amends a rule as follows:

**15 CSR 30-55.010 Who May Request is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2004 (29 MoReg 1056-1057). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE  
Division 200—Financial Examination  
Chapter 2—Reinsurance and Assumptions**

**ORDER OF RULEMAKING**

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

**20 CSR 200-2.100 Credit for Reinsurance is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 17, 2004 (29 MoReg 849-850). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received two (2) comments in response to the notice of proposed rulemaking.

COMMENT: The first comment was from the department's Division of Financial Regulation, which recommended adopting the proposed amendment.

COMMENT: The second comment was from the Reinsurance Association of America (RAA). The RAA generally supported the proposed amendment. The RAA also suggested additional changes to 20 CSR 200-2.100 and rescission of 20 CSR 200-2.700.

RESPONSE: The department declines to adopt the additional suggested changes to 20 CSR 200-2.100. The additional suggested changes to 20 CSR 200-2.100 are not within the scope of the notice of proposed rulemaking. The department generally agrees, however, that the suggested changes would be beneficial because they would generally implement the amendments to section 375.246, RSMo, in HB 1568 (Laws 2002) and, accordingly, will propose to adopt similar amendments for that purpose.

The department also declines to rescind 20 CSR 200-2.700. Such rescission was not the subject of any prior notice of proposed rulemaking and, accordingly, may not be adopted at this time. In addition, the department believes that 20 CSR 200-2.700 still serves a useful purpose in measuring the proper amount of reserve credit for certain ceded reinsurance.



This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 100—Division of Credit Unions**

#### **ACTIONS TAKEN ON APPLICATIONS FOR NEW GROUPS OR GEOGRAPHIC AREAS**

Pursuant to section 370.081(4), RSMo 2000, the director of the Missouri Division of Credit Unions is required to cause notice to be published that the director has either granted or rejected applications from the following credit unions to add new groups or geographic areas to their membership and state the reasons for taking these actions.

The following applications have been granted. These credit unions have met the criteria applied to determine if additional groups may be included in the membership of an existing credit union and have the immediate ability to serve the proposed new groups or geographic areas. The proposed new groups or geographic areas meet the requirements established pursuant to 370.080(2), RSMo 2000.

Credit Union	Proposed New Group or Geographic Area
Lake City Credit Union 2112 S. 291 Hwy. Independence, MO 64057	Persons who are living or working in the zip codes of 64055, 64029 and 64075

#### **MISSOURI DIVISION OF CREDIT UNIONS APPLICATION TO EXPAND THE FIELD OF MEMBERSHIP OF LAKE CITY CREDIT UNION**

##### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The application to expand the field of membership was received by the Director, Division of Credit Unions on June 30, 2004.

2. The application was submitted in the required format and on June 30, 2004 deemed to be complete.

3. Lake City Credit Union by resolution of their Board of Directors adopted May 24, 2004 as found in the application will expand their field of membership by geographic areas (RSMo 370.081.4; 370.080.2).

4. Lake City Credit Union applied to expand their field of membership to include persons who are living or working in Zip Codes 64055, 64029 and 64075 as described in the resolution adopted by their Board of Directors on May 24, 2004. According to application the total population of the three Zip Codes is 51,419. Therefore provisions of RSMo 370.081.2 and 4 CSR 105-3.040 Exemptions from Limitations on Groups are applicable.

5. The Credit Union Commission took action by motion during their meeting on July 22, 2004 to find the application meets the criteria of 4 CSR 105-3.040 for an exemption from the limitations on groups.

6. After review of Lake City Credit Union's most recent Supervisory Examination Report and the June 2004 call report, the Director is satisfied that this credit union is operating in a safe and sound manner and there are no adverse conditions or regulatory concerns. (4 CSR 105-3.020 Criteria for Additional Membership Groups (1)(A)).

7. Lake City Credit Union's net worth as reported on the June 2004 call report is 11.12%. The Director finds that Lake City Credit Union is adequately capitalized. (4 CSR 105-3.020 Criteria for Additional Membership Groups (1)(B)).

8. After review of Lake City Credit Union's business plan submitted as part of the field of membership application, the June 2004 call report, and the most recent Supervisory Examination Report, the Director finds this credit union has the administrative capability and the financial resources to serve the proposed group. (4 CSR 105-3.020 Criteria for Additional Membership Groups (1)(C)).

9. That no evidence was submitted as part of the application nor is the Director in possession of any information that any other group is interested in forming a new credit union to serve this group. (4 CSR 105-3.020 Criteria for Additional Membership Groups (1)(D)).



John P. Smith, Director  
Division of Credit Unions

Date: September 16, 2004

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 100—Division of Credit Unions**

#### **APPLICATIONS FOR NEW GROUPS OR GEOGRAPHIC AREAS**

Pursuant to section 370.081(4), RSMo 2000, the director of the Missouri Division of Credit Unions is required to cause notice to be published that the following credit unions have submitted applications to add new groups or geographic areas to their membership.

Credit Union	Proposed New Group or Geographic Area
Northland Teachers Community Credit Union 6604 N. Oak Trafficway Gladstone, MO 64118	Persons who are living or working in the zip codes of 64153 & 64154.

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a written statement in support of or in opposition to any of these applications. Comments shall be filed with: Director, Division of Credit Unions, PO Box 1607, Jefferson City, MO 65102. To be considered, written comments must be submitted no later than ten (10) business days after publication of this notice in the Missouri Register.*

#### **Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES Division 60—Missouri Health Facilities Review Committee Chapter 50—Certificate of Need Program**

#### **EXPEDITED APPLICATION REVIEW SCHEDULE**

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for October 25, 2004. These applications are available for public inspection at the address shown below:

**Date Filed**

**Project Number:** Project Name

City (County)

Cost, Description

**09/07/04**

**#3680 RS:** Branson Meadows Assisted Living

Branson (Taney County)

\$1,276,600, Modernize facility

**09/10/04**

**#3681 HS:** Research Medical Center

Kansas City (Jackson County)

\$3,925,000, Replace gamma knife

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by October 13, 2004. All written requests and comments should be sent to:

Chairman

Missouri Health Facilities Review Committee

c/o Certificate of Need Program

915 G Leslie Boulevard

Jefferson City, MO 65101

For additional information contact

Donna Schuessler, 573-751-6403.

## Schedule of Compensation as Required by Section 105.005, RSMo

<u>Office</u>	<u>RSMo Citation</u>	<u>Statutory Salary FY 2004</u>	<u>Statutory Salary FY 2005</u>
<u>Elected Officials</u>			
Governor	26.010	\$120,087	\$120,087
Lt. Governor	26.010	77,184	77,184
Attorney General	27.010	104,332	104,332
Secretary of State	28.010	96,455	96,455
State Treasurer	30.010	96,455	96,455
State Auditor	29.010	96,455	96,455
<u>General Assembly</u>			
Senator	21.140	31,351	31,351
Representative	21.140	31,351	31,351
Speaker of House	21.140	33,851	33,851
President Pro Tem of Senate	21.140	33,851	33,851
Speaker Pro Tem of the House	21.140	32,851	32,851
Majority Floor Leader of House	21.140	32,851	32,851
Majority Floor Leader of Senate	21.140	32,851	32,851
Minority Floor Leader of House	21.140	32,851	32,851
Minority Floor Leader of Senate	21.140	32,851	32,851
<u>State Tax Commissioners</u>	138.230	94,029	95,229
<u>Administrative Hearing Commissioners</u>	621.015	91,637	92,837
<u>Labor and Industrial Relations Commissioners</u>	286.005	94,029	95,229
<u>Division of Workers' Compensation</u>			
Legal Advisor	287.615	76,800	76,800 *
Chief Counsel	287.615	78,800	78,800 *
Administrative Law Judge	287.615	86,400	86,400 *
Administrative Law Judge in Charge	287.615	91,400	91,400 *
Director, Division of Workers' Compensation	287.615	93,400	94,600 *
<u>Public Service Commissioners</u>	386.150	94,029	95,229

	<u>RSMo Citation</u>	<u>Executive Level FY 2004</u>	<u>Executive Level FY 2005</u>
<u>Statutory Department Directors</u>	105.950		
Administration, Agriculture, Corrections, Economic Development, Labor and Industrial Relations, Natural Resources, Public Safety, Revenue, and Social Services		I	I
<u>Probation and Parole</u>	217.665		
Chairman		III	III
Board Members		IV	IV

\*Division of Workers' Compensation salaries are tied to those of Associate Circuit Judges.

**Schedule of Compensation as Required by Section 476.405, RSMo**

	<u>RSMo Citation</u>	<u>Highest Salary FY 2004</u>	<u>Highest Salary FY 2005</u>
<u>Supreme Court</u>			
Chief Justice	477.130	\$125,500	\$125,500
Judges	477.130	123,000	123,000
<u>Court of Appeals</u>			
Judges	477.130	115,000	115,000
<u>Circuit Court</u>			
Circuit Court Judges	478.013	108,000	108,000
Associate Circuit Judges	478.018	96,000	96,000
<u>Juvenile Officers</u>	211.381		
Juvenile Officer		40,676	41,876
Chief Deputy Juvenile Officer		35,202	36,402
Deputy Juvenile Officer Class 1		31,235	32,435
Deputy Juvenile Officer Class 2		28,333	29,533
Deputy Juvenile Officer Class 3		25,732	26,932
<u>Court Reporters</u>	485.060	48,660	49,860
<u>Probate Commissioner</u>	478.266	108,000	108,000 *
	& 478.267		
Deputy Probate Commissioner	478.266	96,000	96,000 *
<u>Family Court Commissioner</u>	211.023	96,000	96,000 *
	& 487.020		
<u>Circuit Clerk</u>			
1st Class Counties	483.083	60,330	61,530
St. Louis City	483.083	100,267	101,467
Jackson, Jasper & Cape Girardeau	483.083	65,337	66,537
2nd & 4th Class Counties	483.083	54,249	55,449
3rd Class Counties	483.083	47,300	48,500
Marion-Hannibal & Palmyra	483.083	53,378	54,578
Randolph & Lewis	483.083	51,811	53,011

\*Salaries are tied to those of Circuit and Associate Circuit Judges.



**Missouri Executive Pay Plan  
Fiscal Year 2005**

<b>Executive Level</b>	<b>Minimum</b>	<b>Maximum</b>
I	\$77,148	\$112,356
II	\$70,704	\$102,804
III	\$64,836	\$94,128
IV	\$59,532	\$86,136

**T**he Secretary of State is required by sections 347.141 and 359.481, RSMo 2000 to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript.

**Notice of Corporate Dissolution  
To All Creditors of and  
Claimants Against  
C. Deeds, Inc.**

On July 17, 2001, C. Deeds, Inc., a Missouri corporation, filed its Articles of Dissolution with the Missouri Secretary of State. Dissolution was effective on September 10, 2004.

Said corporation requests that all persons and organizations who have claims against it present them immediately by letter to the corporation at:

C. Deeds, Inc.  
C/o VanOsdol, Magruder, Erickson & Redmond, P.C.  
911 Main St., Ste. 2400  
Kansas City, MO 64105

All claims must include the name and address of the claimant, the amount claimed, the basis for the claim, and the date(s) on which the event(s) on which the claim is based occurred, a brief description of the nature of the debt or the basis for the claim.

NOTICE: Because of the dissolution of C. Deeds, Inc., any claims against it will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of the two notices authorized by statute, whichever is published last.

# Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—27 (2002), 28 (2003) and 29 (2004). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
1 CSR 10	<b>OFFICE OF ADMINISTRATION</b> State Officials' Salary Compensation Schedule				27 MoReg 189 27 MoReg 1724 28 MoReg 1861
1 CSR 10-4.010	Commissioner of Administration		28 MoReg 1557		
1 CSR 15-3.350	Administrative Hearing Commission		29 MoReg 1048	This Issue	
1 CSR 15-3.380	Administrative Hearing Commission		29 MoReg 1049	This Issue	
1 CSR 15-3.420	Administrative Hearing Commission		29 MoReg 1049	This Issue	
1 CSR 15-3.440	Administrative Hearing Commission		29 MoReg 1049	This Issue	
1 CSR 15-3.480	Administrative Hearing Commission		29 MoReg 1050	This Issue	
1 CSR 20-3.070	Personnel Advisory Board and Division of Personnel		This Issue		
1 CSR 20-5.025	Personnel Advisory Board and Division of Personnel		This Issue		
<b>DEPARTMENT OF AGRICULTURE</b>					
2 CSR 30-1.010	Animal Health		29 MoReg 584	29 MoReg 1316	
2 CSR 30-1.020	Animal Health		29 MoReg 584	29 MoReg 1316	
2 CSR 30-2.010	Animal Health	29 MoReg 1417	29 MoReg 1437		
2 CSR 30-2.020	Animal Health	29 MoReg 571	29 MoReg 584	29 MoReg 1369	
2 CSR 30-2.040	Animal Health	29 MoReg 572	29 MoReg 585	29 MoReg 1369	
2 CSR 30-2.060	Animal Health				29 MoReg 1480
2 CSR 30-3.020	Animal Health	29 MoReg 573	29 MoReg 586	29 MoReg 1369	
2 CSR 30-6.020	Animal Health	29 MoReg 573 29 MoReg 1418	29 MoReg 586 29 MoReg 1438	29 MoReg 1370	
2 CSR 70-40.015	Plant Industries		29 MoReg 1439		
2 CSR 70-40.025	Plant Industries		29 MoReg 1439		
<b>DEPARTMENT OF CONSERVATION</b>					
3 CSR 10-7.410	Conservation Commission		29 MoReg 1291		
3 CSR 10-7.440	Conservation Commission		N.A.	29 MoReg 1471	
3 CSR 10-7.450	Conservation Commission		29 MoReg 1091	29 MoReg 1472	
3 CSR 10-7.455	Conservation Commission		29 MoReg 890	29 MoReg 1316	
3 CSR 10-9.353	Conservation Commission		29 MoReg 1440		
3 CSR 10-9.442	Conservation Commission		N.A.	29 MoReg 1472	
3 CSR 10-9.565	Conservation Commission		29 MoReg 1440		
3 CSR 10-11.186	Conservation Commission		29 MoReg 1091	29 MoReg 1473	
3 CSR 10-12.130	Conservation Commission		29 MoReg 1092	29 MoReg 1473	
3 CSR 10-12.140	Conservation Commission		29 MoReg 1092	29 MoReg 1473	
3 CSR 10-12.155	Conservation Commission		29 MoReg 1092	29 MoReg 1473	
3 CSR 10-20.805	Conservation Commission		29 MoReg 1093 29 MoReg 1291	29 MoReg 1473	
<b>DEPARTMENT OF ECONOMIC DEVELOPMENT</b>					
4 CSR 40-2.021	Office of Athletics		29 MoReg 1093	29 MoReg 1370	
4 CSR 40-5.030	Office of Athletics		29 MoReg 1094	29 MoReg 1370	
4 CSR 45-1.010	Athlete Agents	29 MoReg 1420	29 MoReg 1441		
4 CSR 65-1.020	Endowed Care Cemeteries		29 MoReg 1161R		
4 CSR 65-1.030	Endowed Care Cemeteries		29 MoReg 1161		
4 CSR 65-1.050	Endowed Care Cemeteries		29 MoReg 1162		
4 CSR 65-2.010	Endowed Care Cemeteries		29 MoReg 1162		
4 CSR 90-2.010	State Board of Cosmetology		29 MoReg 1292		
4 CSR 90-2.020	State Board of Cosmetology		29 MoReg 1299		
4 CSR 90-2.030	State Board of Cosmetology		29 MoReg 1299		
4 CSR 90-4.010	State Board of Cosmetology		29 MoReg 1300		
4 CSR 90-13.010	State Board of Cosmetology		29 MoReg 1303		
4 CSR 100	Division of Credit Unions				29 MoReg 920 29 MoReg 1061 29 MoReg 1322 29 MoReg 1480 This Issue
4 CSR 110-2.085	Missouri Dental Board		29 MoReg 1162		
4 CSR 110-2.111	Missouri Dental Board		29 MoReg 1163		
4 CSR 110-2.130	Missouri Dental Board		29 MoReg 890	This Issue	
4 CSR 110-2.170	Missouri Dental Board		This Issue		
4 CSR 110-2.180	Missouri Dental Board		This IssueR		
4 CSR 110-2.181	Missouri Dental Board		This IssueR		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 110-4.010	Missouri Dental Board		This Issue		
4 CSR 110-4.020	Missouri Dental Board		This Issue		
4 CSR 110-4.030	Missouri Dental Board		This Issue		
4 CSR 110-4.040	Missouri Dental Board		This Issue		
4 CSR 120-2.060	Missouri Dental Board		This Issue		
4 CSR 150-2.125	State Board of Registration for the Healing Arts		29 MoReg 781	29 MoReg 1317	
4 CSR 150-2.153	State Board of Registration for the Healing Arts		29 MoReg 781		
4 CSR 150-4.040	State Board of Registration for the Healing Arts		29 MoReg 785	29 MoReg 1317	
4 CSR 150-4.053	State Board of Registration for the Healing Arts		29 MoReg 785	29 MoReg 1317	
4 CSR 150-4.205	State Board of Registration for the Healing Arts		29 MoReg 785	29 MoReg 1317	
4 CSR 205-4.010	Missouri Board of Occupational Therapy		29 MoReg 1164		
4 CSR 220-3.040	State Board of Pharmacy		29 MoReg 970		
4 CSR 220-4.010	State Board of Pharmacy		29 MoReg 973		
4 CSR 220-4.020	State Board of Pharmacy		29 MoReg 973R		
4 CSR 230-1.010	State Board of Podiatric Medicine		29 MoReg 1444		
4 CSR 230-1.020	State Board of Podiatric Medicine		29 MoReg 1444		
4 CSR 230-1.030	State Board of Podiatric Medicine		29 MoReg 1444		
4 CSR 230-2.010	State Board of Podiatric Medicine		29 MoReg 1445		
4 CSR 230-2.020	State Board of Podiatric Medicine		29 MoReg 1446		
4 CSR 230-2.021	State Board of Podiatric Medicine		29 MoReg 1447		
4 CSR 230-2.022	State Board of Podiatric Medicine		29 MoReg 1447		
4 CSR 230-2.030	State Board of Podiatric Medicine		29 MoReg 1448		
4 CSR 230-2.041	State Board of Podiatric Medicine		29 MoReg 1450		
4 CSR 230-2.050	State Board of Podiatric Medicine		29 MoReg 1451		
4 CSR 230-2.065	State Board of Podiatric Medicine		29 MoReg 1452		
4 CSR 230-2.070	State Board of Podiatric Medicine		29 MoReg 1453		
4 CSR 240-3.020	Public Service Commission		29 MoReg 717	29 MoReg 1474	
4 CSR 240-3.510	Public Service Commission		29 MoReg 717	29 MoReg 1474	
4 CSR 240-3.520	Public Service Commission		29 MoReg 718	29 MoReg 1474	
4 CSR 240-3.525	Public Service Commission		29 MoReg 721	29 MoReg 1474	
4 CSR 240-3.530	Public Service Commission		29 MoReg 724	29 MoReg 1475	
4 CSR 240-3.535	Public Service Commission		29 MoReg 727	29 MoReg 1475W	
4 CSR 240-3.560	Public Service Commission		29 MoReg 730	29 MoReg 1475	
4 CSR 240-3.565	Public Service Commission		29 MoReg 730	29 MoReg 1476	
4 CSR 240-13.015	Public Service Commission		29 MoReg 731	29 MoReg 1317	
4 CSR 240-13.055	Public Service Commission		29 MoReg 786	29 MoReg 1371	
4 CSR 240-32.060	Public Service Commission		28 MoReg 2147		
4 CSR 240-33.160	Public Service Commission		29 MoReg 732	This Issue	
4 CSR 240-120.085	Public Service Commission		29 MoReg 1164		
4 CSR 240-120.135	Public Service Commission		29 MoReg 1167R		
4 CSR 240-121.185	Public Service Commission		29 MoReg 1167R		
4 CSR 240-123.075	Public Service Commission		29 MoReg 1167R		
4 CSR 240-123.095	Public Service Commission		29 MoReg 1167		
4 CSR 245-4.060	Real Estate Appraisers		29 MoReg 1170		
4 CSR 245-5.020	Real Estate Appraisers		29 MoReg 1173		
4 CSR 245-5.030	Real Estate Appraisers		29 MoReg 1175		
4 CSR 245-9.010	Real Estate Appraisers		29 MoReg 1175		
4 CSR 263-2.082	State Committee for Social Workers		29 MoReg 1175		
4 CSR 263-3.010	State Committee for Social Workers		29 MoReg 1180		
4 CSR 263-3.060	State Committee for Social Workers		29 MoReg 1180		
4 CSR 263-3.080	State Committee for Social Workers		29 MoReg 1180		
4 CSR 263-3.100	State Committee for Social Workers		29 MoReg 1181		
4 CSR 263-3.120	State Committee for Social Workers		29 MoReg 1182		
4 CSR 265-2.060	Division of Motor Carrier and Railroad Safety				29 MoReg 1323
4 CSR 267-4.020	Office of Tattooing, Body Piercing and Branding		This Issue		
4 CSR 270-4.042	Missouri Veterinary Medical Board		29 MoReg 1182		
4 CSR 270-4.050	Missouri Veterinary Medical Board		29 MoReg 1183		
<b>DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION</b>					
5 CSR 30-4.030	Division of Administrative and Financial Services				29 MoReg 1218
5 CSR 50-345.020	Division of School Improvement				29 MoReg 859
5 CSR 50-345.100	Division of School Improvement		29 MoReg 1183		
5 CSR 50-345.200	Division of School Improvement		29 MoReg 1186		
5 CSR 80-805.015	Teacher Quality and Urban Education		29 MoReg 791	This Issue	
5 CSR 80-805.016	Teacher Quality and Urban Education		29 MoReg 793R	This IssueR	
5 CSR 90-5.400	Vocational Rehabilitation		29 MoReg 1187		
5 CSR 90-5.460	Vocational Rehabilitation		29 MoReg 1187		
5 CSR 90-5.470	Vocational Rehabilitation		29 MoReg 1188		
5 CSR 90-7.010	Vocational Rehabilitation		29 MoReg 1051		
5 CSR 90-7.100	Vocational Rehabilitation		29 MoReg 1051		
5 CSR 90-7.200	Vocational Rehabilitation		29 MoReg 1052		
5 CSR 90-7.300	Vocational Rehabilitation		29 MoReg 1052		
5 CSR 90-7.310	Vocational Rehabilitation		29 MoReg 1053		
5 CSR 90-7.320	Vocational Rehabilitation		29 MoReg 1053		



Rule Number	Agency	Emergency	Proposed	Order	In Addition
5 CSR 100-200.045	Missouri Commission for the Deaf and Hard of Hearing	29 MoReg 963			
<b>DEPARTMENT OF TRANSPORTATION</b>					
7 CSR 10-17.010	Missouri Highways and Transportation Commission		28 MoReg 1563		
7 CSR 10-25.040	Missouri Highways and Transportation Commission		29 MoReg 1352		
<b>DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS</b>					
8 CSR 10-3.010	Division of Employment Security		29 MoReg 793	29 MoReg 1318	
8 CSR 10-3.020	Division of Employment Security		29 MoReg 794R	29 MoReg 1318R	
8 CSR 30-3.060	Division of Labor Standards		29 MoReg 1192		
<b>DEPARTMENT OF MENTAL HEALTH</b>					
9 CSR 10-5.200	Director, Department of Mental Health		29 MoReg 1054		
9 CSR 10-5.210	Director, Department of Mental Health		29 MoReg 794	29 MoReg 1318	
9 CSR 10-31.014	Director, Department of Mental Health	This Issue	This Issue		
9 CSR 30-3.201	Certification Standards		29 MoReg 1096		
9 CSR 30-3.202	Certification Standards		29 MoReg 1096		
9 CSR 30-3.204	Certification Standards		29 MoReg 1097		
9 CSR 30-3.206	Certification Standards		29 MoReg 1097		
9 CSR 30-3.208	Certification Standards		29 MoReg 1099		
9 CSR 30-4.195	Certification Standards				29 MoReg 1323
9 CSR 45-5.020	Division of Mental Retardation and Developmental Disabilities		29 MoReg 1455R		
9 CSR 45-5.030	Division of Mental Retardation and Developmental Disabilities		29 MoReg 1455R		
<b>DEPARTMENT OF NATURAL RESOURCES</b>					
10 CSR 10-6.060	Air Conservation Commission		29 MoReg 974		
10 CSR 10-6.061	Air Conservation Commission		29 MoReg 1193		
10 CSR 10-6.110	Air Conservation Commission		29 MoReg 976		
10 CSR 10-6.120	Air Conservation Commission		29 MoReg 1196		
10 CSR 10-6.410	Air Conservation Commission		29 MoReg 985		
10 CSR 25-17.010	Hazardous Waste Management Commission		29 MoReg 794		
10 CSR 25-17.020	Hazardous Waste Management Commission		29 MoReg 795		
10 CSR 25-17.030	Hazardous Waste Management Commission		29 MoReg 796		
10 CSR 25-17.040	Hazardous Waste Management Commission		29 MoReg 797		
10 CSR 25-17.050	Hazardous Waste Management Commission		29 MoReg 803		
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- 2 CSR 30-2.010 Health Requirements Governing the Admission of Livestock, Poultry  
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- 2 CSR 30-6.020 Duties and Facilities of the Market/Sale Veterinarian . . . . . 29 MoReg 1418 . . . . . March 1, 2005

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- 4 CSR 45-1.010 Fees . . . . . 29 MoReg 1420 . . . . . March 7, 2005

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- 5 CSR 100-200.045 Temporary Restricted Certification in Education . . . . . 29 MoReg 963 . . . . . November 27, 2004

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- 9 CSR 10-31.014 Waiver of Standard Means Test for Children in Need of  
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- 11 CSR 40-3.010 Fireworks—Licenses, Sales and Penalties . . . . . 29 MoReg 1420 . . . . . March 7, 2005
- 11 CSR 40-3.010 Fireworks—Licensing, Permits, Sales, Inspection, and Penalties . . . . . 29 MoReg 1420 . . . . . March 7, 2005

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- 11 CSR 50-2.311 Bumpers. . . . . 29 MoReg 1426 . . . . . March 9, 2005
- 11 CSR 50-2.320 School Bus Inspection . . . . . 29 MoReg 1428 . . . . . March 9, 2005

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#### Children's Division

- 13 CSR 35-80.010 Residential Foster Care Maintenance Methodology . . . . . Next Issue . . . . . March 30, 2005
- 13 CSR 35-80.020 Residential Care Agency Cost Reporting System . . . . . Next Issue . . . . . March 30, 2005

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- 13 CSR 40-2.375 Medical Assistance for Families . . . . . 29 MoReg 1089 . . . . . December 27, 2004
- 13 CSR 40-19.020 Low Income Home Energy Assistance Program . . . . . Next Issue . . . . . April 1, 2005

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- 13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. . . . . 29 MoReg 1155 . . . . . December 15, 2004
- 13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services . . . 29 MoReg 1156 . . . . . December 15, 2004
- 13 CSR 70-15.110 Federal Reimbursement Allowance (FRA) . . . . . 29 MoReg 1089 . . . . . December 13, 2004
- 13 CSR 70-15.110 Federal Reimbursement Allowance (FRA) . . . . . This Issue . . . . . March 18, 2005

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- 15 CSR 30-54.215 Accredited Investor Exemption . . . . . 29 MoReg 1428 . . . . . March 9, 2005
- 15 CSR 30-54.215 Accredited Investor Exemption . . . . . 29 MoReg 1428 . . . . . March 9, 2005

#### State Auditor

- 15 CSR 40-3.120 Calculation and Revision of Property Tax Rates . . . . . Next Issue . . . . . April 1, 2005
- 15 CSR 40-3.130 Calculation and Revision of Property Tax Rates by School Districts  
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- 15 CSR 40-3.140 Calculation and Revision of Property Tax Rates by School Districts  
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- 15 CSR 40-3.150 Calculation and Revision of Property Tax Rates by Political Subdivisions  
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- 15 CSR 40-3.160 Calculation and Revision of Property Tax Rates by Political Subdivision  
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<b>15 CSR 60-14.020</b>	Contract Procedures . . . . .	This Issue . . . . .	March 10, 2005
<b>15 CSR 60-14.030</b>	Documentation of Legal Practice . . . . .	This Issue . . . . .	March 10, 2005

## Department of Health and Senior Services

### Division of Environmental Health and Communicable Disease Prevention

<b>19 CSR 20-3.080</b>	Description of Persons Qualified to Perform Percolation Tests, Soils Morphology Examinations in Determining Soil Properties for On-Site Sewage Disposal Systems and Installation of On-Site Wastewater Treatment Systems . . . . .	This Issue . . . . .	March 10, 2005
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# Executive Orders

Executive Orders	Subject Matter	Filed Date	Publication
<b><u>2004</u></b>			
04-01	Establishes the Public Safety Officer Medal of Valor, and the Medal of Valor Review Board	February 3, 2004	29 MoReg 294
04-02	Designates staff having supervisory authority over agencies	February 3, 2004	29 MoReg 297
04-03	Creates the Missouri Automotive Partnership	January 14, 2004	29 MoReg 151
04-04	Creates the Missouri Methamphetamine Education and Prevention Task Force	January 27, 2004	29 MoReg 154
04-05	Establishes a Missouri Methamphetamine Treatment Task Force	January 27, 2004	29 MoReg 156
04-06	Establishes a Missouri Methamphetamine Enforcement and Environmental Protection Task Force	January 27, 2004	29 MoReg 158
04-07	Establishes the Missouri Commission on Patient Safety and supercedes Executive Order 03-16	February 3, 2004	29 MoReg 299
04-08	Transfers the Governor's Council on Disability and the Missouri Assistive Technology Advisory Council to the Office of Administration	February 3, 2004	29 MoReg 301
04-09	Requires vendors to disclose services performed offshore. Restricts agencies in awarding contracts to vendors of offshore services	March 17, 2004	29 MoReg 533
04-10	Grants authority to Director of Department of Natural Resources to temporarily waive regulations during periods of emergency and recovery	May 28, 2004	29 MoReg 965
04-11	Declares regional state of emergency because of the need to repair electrical outages by various contractors, including a Missouri contractor. Allows temporary exemption from federal regulations	May 28, 2004	29 MoReg 967
04-12	Declares emergency conditions due to severe weather in all Northern and Central Missouri counties	June 4, 2004	29 MoReg 968
04-13	Declares June 11, 2004 to be day of mourning for President Ronald Reagan	June 7, 2004	29 MoReg 969
04-14	Establishes an Emancipation Day Commission. Requests regular observance of Emancipation Proclamation on June 19	June 17, 2004	29 MoReg 1045
04-15	Declares state of emergency due to lost electrical service in St. Louis region	July 7, 2004	29 MoReg 1159
04-16	Orders a special census be taken in the City of Licking	July 23, 2004	29 MoReg 1245
04-17	Declares that Missouri implement the Emergency Mutual Aid Compact (EMAC) agreement with the State of Florida	August 18, 2004	29 MoReg 1347
04-18	Accepts retrocession of federal jurisdiction over the St. Louis Army Ammunition Plant	August 25, 2004	29 MoReg 1349
04-19	Implements the EMAC with the State of Florida, activates the EMAC plan, and authorizes the use of the Missouri National Guard	September 10, 2004	29 MoReg 1430
04-20	Reestablishes the Poultry Industry Committee	September 14, 2004	29 MoReg 1432
04-21	Directs the creation of the Forest Utilization Committee within the Missouri Department of Conservation	September 14, 2004	29 MoReg 1434
<b><u>2003</u></b>			
03-01	Reestablishes the Missouri Lewis and Clark Bicentennial Commission	February 3, 2003	28 MoReg 296
03-02	Establishes the Division of Family Support in the Dept. of Social Services	February 5, 2003	28 MoReg 298
03-03	Establishes the Children's Division in the Dept. of Social Services	February 5, 2003	28 MoReg 300
03-04	Transfers all TANF functions to the Division of Workforce Development in the Dept. of Economic Development	February 5, 2003	28 MoReg 302
03-05	Transfers the Division of Highway Safety to the Dept. of Transportation	February 5, 2003	28 MoReg 304
03-06	Transfers the Minority Business Advocacy Commission to the Office of Administration	February 5, 2003	28 MoReg 306
03-07	Creates the Commission on the Future of Higher Education	March 17, 2003	28 MoReg 631
03-08	Lists Governor's staff who have supervisory authority over departments	September 4, 2003	28 MoReg 1556
03-09	Lists Governor's staff who have supervisory authority over departments	March 18, 2003	28 MoReg 633
03-10	Creates the Missouri Energy Policy Council	March 13, 2003	28 MoReg 634
03-11	Creates the Citizens Advisory Committee on Corrections	April 1, 2003	28 MoReg 705
03-12	Declares disaster areas due to May 4 tornadoes	May 5, 2003	28 MoReg 950
03-13	Calls National Guard to assist in areas harmed by the May 4 tornadoes	May 5, 2003	28 MoReg 952
03-14	Temporarily suspends enforcement of environmental rules due to the May 4th [et al.] tornadoes	May 7, 2003	28 MoReg 954
03-15	Establishes the Missouri Small Business Regulatory Fairness Board	August 25, 2003	28 MoReg 1477
03-16	Establishes the Missouri Commission on Patient Safety	October 1, 2003	28 MoReg 1760
03-17	Creates the Governor's Committee to End Chronic Homelessness	October 8, 2003	28 MoReg 1899

<b>Executive Orders</b>	<b>Subject Matter</b>	<b>Filed Date</b>	<b>Publication</b>
<b>03-18</b>	Designates the Missouri State Highway Patrol within the Department of Public Safety as lead agency in state communications	December 10, 2003	29 MoReg 7
<b>03-19</b>	Creates the Public Safety Communications Committee	December 10, 2003	29 MoReg 9
<b>03-20</b>	Requires configuration of two-way radios used by agencies of the state of Missouri to include established interoperability channels as specified by the State Interoperability Executive Committee	December 10, 2003	29 MoReg 12
<b>03-21</b>	Closes state offices Friday, November 28 and Friday, December 26, 2003	October 24, 2003	28 MoReg 1989
<b>03-22</b>	Establishes the Missouri Sexual Offender Registration Task Force	December 10, 2003	29 MoReg 14
<b>03-23</b>	Adds the functions of a State Citizen Council to the Disaster Recovery Partnership	December 10, 2003	29 MoReg 16
<b>03-24</b>	Establishes the Governor's Commission on Hispanic Affairs	November 8, 2003	28 MoReg 2085
<b>03-25</b>	Requires state agencies to adopt cyber security policies and procedures. Designates the Office of Information Technology as principal forum to improve policies and procedures	December 10, 2003	29 MoReg 18
<b>03-26</b>	Reestablishes the Office of Information Technology as the mechanism for coordinating information technology initiatives for the state	December 10, 2003	29 MoReg 21
<b>03-27</b>	Use of Missouri products and services	December 2, 2003	28 MoReg 2209

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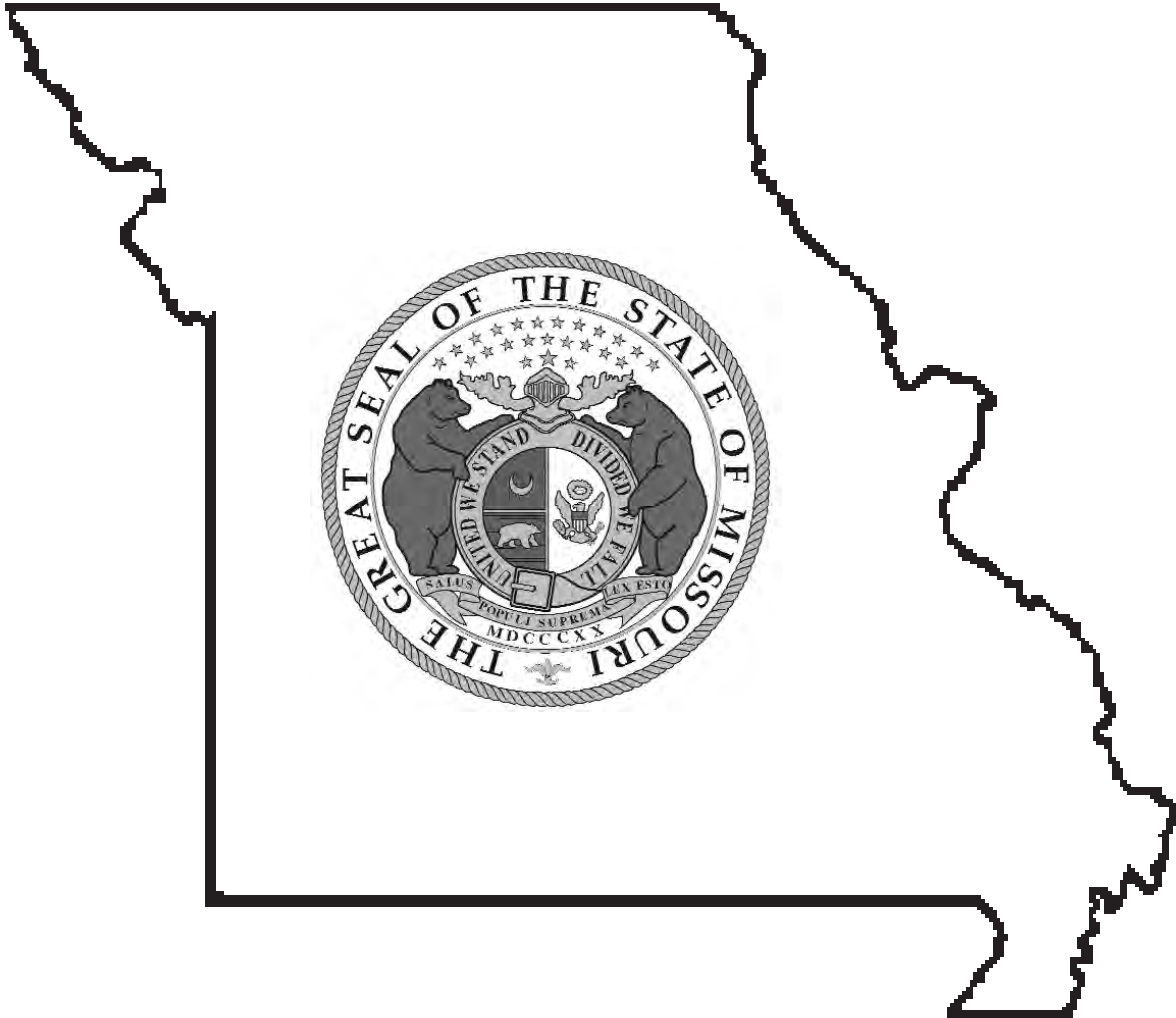
anhydrous ammonia; 2 CSR 90-11.010; 12/15/03, 4/15/04  
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**WRESTLING, OFFICE OF ATHLETICS**

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